UTAH STATE BULLETIN

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

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

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

Division of Administrative Rules, Salt Lake City 84114

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NOTICES OF
PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between October 2, 2008, 12:00 a.m., and October 15, 2008, 11:59 p.m. are included in this, the November 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 Rules being repealed are completely struck out.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 December 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 March 1, 2009, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

PROPOSED RULES are governed by Section 63G-3-301; and Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

Agriculture and Food, Animal Industry
R58-18
Elk Farming

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32011
FILED: 10/09/2008, 11:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rules needs to be amended for the following reasons: 1) to add the definition of "official slaughter facility"; 2) to change the dates of licensing; 3) to modify requirements for entry into the state; 4) to eliminate the need for a rivanol brucellosis test that is sometimes difficult to obtain; and 5) to lower the age of testing for chronic wasting disease from 16 months to 12 months. These changes were requested by the Elk Advisory Council.

SUMMARY OF THE RULE OR CHANGE: The change eliminates the need for a rivanol brucellosis test that is sometimes difficult to obtain and to lower the age of testing for chronic wasting disease from 16 months to 12 months. The change also adds the definition of "official slaughter facility"; changes the dates of licensing; and modifies requirements for entry into the state.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 4, Chapter 39

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: More animals will be tested as the age has been lowered by four months, but the cost will be low. The federal government pays for all testing at this point. If federal funding goes away, the producer will need to pay for the testing. So there will be no cost to the state budget.

❖ LOCAL GOVERNMENTS: Local government is not involved in testing elk, so there is no cost to them.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The rule will make it easier to obtain brucellosis testing when importing elk from an area that does not offer the rivanol brucellosis test.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The elk industry is already under the requirement to test all elk that die or that are killed at 16 months of age or older. This change will lower the required age to 12 months. This will increase the number of animals tested slightly. So far testing is being paid for by the federal government.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes were requested by the Elk Advisory Council which is made up of elk ranchers. Even though there will be some additional testing requirement costs, overall these changes will save businesses money. Leonard M. Blackham, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
AGRICULTURE AND FOOD
ANIMAL 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 at the above address, by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: Leonard M. Blackham, Commissioner

R58. Agriculture and Food, Animal Industry.
R58-18. Elk Farming.
R58-18-2. Definitions.

In addition to the definitions found in Sections 4-1-8, 4-7-3, 4-24-2, 4-32-3 and 4-39-102, the following terms are defined for purposes of this rule:

(1)[~~(10)~~] "Adjacent Herd" means a herd of Cervidae occupying premises that border an affected herd, including herds separated by fences, roads or streams, herds occupying a premise where CWD was previously diagnosed, and herds that share the same license as the affected or source herd, even if separate records are maintained and no commingling has taken place.

(2)[~~(7)~~] "Affected herd" means a herd of Cervidae where an animal has been diagnosed with Chronic Wasting Disease (CWD) caused by protease resistant prion protein (PrP), and confirmed by means of an approved test, within the previous 5 years.

(3)[~~(11)~~] "Approved test" means approved tests for CWD surveillance shall be those laboratory or diagnostic tests accepted nationally by USDA and approved by the state veterinarian.

(4)[~~(13)~~] "Destination Herd" means the intended herd of residence, which will be occupied by the animal which is proposed for importation.

(5)[~~(3)~~] "Domestic elk" as used in this chapter, in addition to 4-39-102, means any elk which has been born inside of, and has spent its entire life within captivity.

(6) "Elk" as used in this chapter means North American Wapiti or Cervus Elaphus Canadensis.

(7)[~~(12)~~] "Herd of Origin" means the herd, which an imported animal has resided in, or does reside in, prior to importation.

(8) "Official slaughter facility" means a place where the slaughter of livestock occurs that is under the authority of the state or federal government and receive state or federal inspection.

(9)[~~(4)~~] "Quarantine Facility" means a confined area where selected elk can be secured, contained and isolated from all other elk and livestock.

(10)[~~(1)~~] "Raised" as used in the act means any possession of domestic elk for any purpose other than hunting.

(11)[~~(5)~~] "Secure Enclosure" means a perimeter fence or barrier that is so constructed as to prevent domestic elk from escaping into the wild or the ingress of native wildlife into the facility.

(12)[~~(2)~~] "Separate location" as used in Subsection 4-39-203(5) means any facility that may be separated by two distinct perimeter fences, not more than 10 miles apart, owned by the same person.

(13)[~~(8)~~] "Trace Back Herd/Source Herd" means any herd of Cervidae where an animal affected with CWD has resided up to 36 months prior to death.

(14)[~~(9)~~] "Trace Forward Herd" means any herd of Cervidae which has received animals that originated from a herd where CWD has been diagnosed, in the previous 36 months prior to the death of the affected (index) animal.

R58-18-4. License Renewal.

(1) Each elk farm must make renewal application to the department on the prescribed form no later than May[~~April~~] 30th indicating its desire to continue as an elk farm. This application shall be accompanied by the required fee.

(2) Any license renewal application received after June[~~April~~] 30th will have a late fee assessed.

(3) Any license received after July 1st is delinquent and any animals on the farm will be quarantined until due process of law against the current owner has occurred. This may result in revocation of the license, loss of the facility number, closure of the facility and or removal of the elk from the premise.

(4) Prior to renewal of the license, the facility will again be inspected by a Utah Department of Agriculture and Food employee. Documentation that all fencing and facility requirements are met as required.

(5) An inventory check will be completed of all elk on the premise, and a visual general health check of all animals will be made. Documentation showing that genetic purity has been maintained throughout the year is also required for annual license renewal.

(6) The licensee shall provide a copy of the inventory sheet to the inspector at the time of inspection.

R58-18-7. Genetic Purity.

(1) All elk[~~animals~~] entering Utah, except those going directly to slaughter, must have written evidence of genetic purity. Written evidence of genetic purity will include one of the following:

(a) Test charts from an approved lab that have run either a:

(i) Blood genetic purity test or

(ii) DNA genetic purity test.

(b) Registration papers from the North American Elk Breeders Association.

(c) Herd purity certification papers issued by another state agency.

(2) Genetic purity records must be kept on file and presented to the inspector at the time elk are brought into the state and also each year during the license renewal process.

(3) Any elk identified as having red deer genetic influence shall be destroyed, or immediately removed from the state.

R58-18-8. Acquisition of or slaughter of Elk.

(1) Only domesticated elk will be allowed to enter and be kept on any elk farm in Utah.

(2) All new elk brought into a facility shall be held in a quarantine facility until a livestock inspector has inspected the animal(s) to verify that all health, identification and genetic purity requirements have been met. New animals may not co-mingle with any elk already on the premise until this verification is completed by the livestock inspector.

(3) All elk presented for slaughter at an official slaughter facility, that have come from an out of state source, must arrive on a day when no Utah raised elk or elk carcasses are present at the plant.

(4) Individual elk identification must be maintained throughout slaughter and processing until such time that CWD test results have been returned from the laboratory.

(5) Out of state elk shall be tested for Brucellosis at the time of slaughter.

R58-18-9. Identification.

(1) All elk shall be permanently identified with either a tattoo or micro chip.

(2) If the identification method chosen to use is the micro chip, a reader must be made available, by the owner, to the inspector at the time of any inspection to verify chip number. The chip shall be placed in the right ear.

(3) If tattooing is the chosen method of identification, each elk shall bear a tattoo number consisting of the following:

(a) UT (indicating Utah) followed by a number assigned by the department (indicating the facility number of the elk farm) and

(b) Any alphanumeric combination of letters or numbers consisting of not less than 3 digits, indicating the individual animal number herein referred to as the "ID number".

Example:

UTxxx

ID number (001)

(c) Each elk shall be tattooed on either the right peri-anal hairless area beside the tail or in the right ear.

(d) Each alphanumeric character must be at least 3/8 inch high.

(e) Each newly purchased elk will not need to be retattooed or chipped if they already have this type of identification.

(f) Any purchased elk not already identified shall be tattooed or chipped within 30 days after arriving on the farm.

(g) All calves must be tattooed within 15 days after weaning or in no case later than March[~~January~~] 1st.

(4) In addition to one of the two above mentioned identification methods, each elk shall be identified by the official USDA ear tag or other ear tag approved by the director.

R58-18-11. Health Rules.

(1) Prior to the importation of elk, whether by live animals, gametes, eggs, sperm or other genetic material into the State of Utah, the importing party must obtain an entry permit from the Utah State Veterinarians office. (801-538-7164)

(a) An entry permit number shall be issued only if the destination is licensed as an elk farm by the Utah Department of Agriculture and Food or an official slaughter facility.

(b) The entry permit number for Utah shall be obtained by the local veterinarian conducting the official health inspection by contacting the Utah Department of Agriculture and Food permit desk at 80l-538-7164.

(2) All elk imported into Utah must be examined by an accredited veterinarian prior to importation and must be accompanied by a valid certificate of veterinary inspection, health certificate, certifying a disease free status.

(a) Minimum specific disease testing results or health statements must be included on the certificate of veterinary inspection. Minimum

disease testing requirement may be waived on elk traveling directly to an official slaughter facility.

(b) A negative tuberculosis test must be completed within 60 days prior to entry into the state. A retest is also optional at the discretion of the state veterinarian.

(c) If animals do not originate from a tuberculosis accredited, qualified or monitored herd, they may be imported only if accompanied by a certificate stating that such domestic cervidae have been classified negative to two official tuberculosis tests that were conducted not less than 90 days apart, that the second test was conducted within 60 days prior to the date of movement. The test eligible age is six months or older, or less than six months of age if not accompanied by a negative testing dam.

(d) All elk being imported shall test negative for brucellosis if six months of age or older, by at least two types of official USDA brucellosis tests[~~, one of which shall be the rivanol test~~].

(e) The certificate of veterinary inspection must also include the following signed statement: "To the best of my knowledge the elk listed herein are not infected with Johne's Disease (Paratuberculosis), Chronic Wasting Disease or Malignant Catarrhal Fever and have never been east of the 100 degree meridian."

(f) The certificate of veterinary inspection shall also contain the name and address of the shipper and receiver, the number, sex, age and any individual identification on each animal.

(3) Additional disease testing may be required at the discretion of the state veterinarian prior to importation or when there is reason to believe other disease(s), or parasites are present, or that some other health concerns are present.

(4) Imported or existing elk may be required to be quarantined at an elk farm if the state veterinarian determines the need for and the length of such a quarantine.

(5) Any movement of elk outside a licensed elk farm shall comply with standards as provided in the document entitled: "Uniform Methods and Rules (UM and R)", as approved and published by the USDA. The documents, entitled: "Tuberculosis Eradication in Cervidae, Uniform Methods and Rules", the May 15, 1994 edition, and "Brucellosis Eradication, Uniform Methods and Rules", the May 6, 1992 edition as published by the USDA, are hereby incorporated by reference into this rule. These are the standards for tuberculosis and brucellosis eradication in domestic cervidae. Copies of the methods and rules are on file and available for public inspection at the Division of Animal Industry, Department of Agriculture and Food offices located at 350 North Redwood Road, Salt Lake City, Utah.

(6) Treatment of all elk for internal and external parasites is required within 30 days prior to entry, except elk going directly to slaughter.

(7) All elk imported into Utah must originate from a state or province, which requires that all suspected or confirmed cases of Chronic Wasting Disease (CWD), be reported to the State Veterinarian or regulatory authority. The state or province of origin must have the authority to quarantine source herds and herds affected with or exposed to CWD.

(8) [~~Due to the potential risk of the spread of CWD, no live elk shall be imported into Utah until July 1, 2003. Following this period and~~]B[~~b~~]ased on the State Veterinarian's approval, all elk imported into Utah shall originate from states, which have implemented a Program for Surveillance, Control, and Eradication of CWD in Domestic Elk. All elk imported to Utah must originate from herds that have been participating in a verified CWD surveillance program for a minimum of 5 years. Animals will be accepted for movement only if epidemiology based on vertical and horizontal transmission is in place.

(9) No elk originating from a CWD affected herd, trace back herd/source herd, trace forward herd, adjacent herd, or from an area considered to be endemic to CWD, may be imported to Utah.

(10) Elk semen, eggs, or gametes, require a Certificate of Veterinary Inspection verifying the individual source animal has been tested for genetic purity for Rocky Mountain Elk genes and certifying that it has never resided on a premise where Chronic Wasting Disease has been identified or traced. An import Entry Permit obtained by the issuing veterinarian must be listed on the Certificate of Veterinary Inspection. Permits may be obtained by calling 801-538-7164 during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.

R58-18-12. Chronic Wasting Disease Surveillance.

(1) The owner, veterinarian, or inspector of any elk which is suspected or confirmed to be affected with Chronic Wasting Disease (CWD) in Utah is required to report that finding to the State Veterinarian.

(2) Each elk farm, licensed in Utah, shall be required to submit the brain stem (obex portion of the medulla) of any elk over [~~16~~]12 months of age that dies or is otherwise slaughtered or destroyed, for testing for Chronic Wasting Disease (CWD) by an official test. The samples shall be collected by an accredited veterinarian, or an approved laboratory, or person trained and approved by the state veterinarian.

(3) Each hunting park, licensed in Utah, shall be required to submit the brain stem (obex portion of the medulla) of all elk over [~~16~~]12 months of age that die; or that are otherwise harvested, slaughtered, killed, or destroyed, for testing for Chronic Wasting Disease with an official test. The samples shall be collected by an accredited veterinarian, approved laboratory, or person trained and approved by the State Veterinarian.

(4) The CWD surveillance samples from elk residing on licensed elk farms and elk hunting parks shall be collected and preserved in formalin within 48 hours following the death of the animal, and submitted within 7 days, to a laboratory approved by the State Veterinarian. Training of approved personnel shall include collection, handling, shipping, and identification of specimens for submission.

(5) Laboratory fees and expenses incurred for collection and shipping of samples shall be the responsibility of the participating elk farm or hunting park.

(6) The disposition of CWD affected herds in Utah shall be determined by the State Veterinarian.

KEY: inspections
Date of Enactment or Last Substantive Amendment: [~~July 18, 2002~~]2008
Notice of Continuation: February 8, 2007
Authorizing, and Implemented or Interpreted Law: 4-39-106

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Agriculture and Food, Plant Industry
R68-2-3
Registration of Products

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32031
FILED: 10/13/2008, 12:34

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to delete the reference of the dollar amount for the late fee for product registrations of $5 and insert language to reference that late fees are determined by the Department pursuant to Subsection 4-2-2(2).

SUMMARY OF THE RULE OR CHANGE: This amendment deletes the reference of the dollar amount for the late fee for product registrations of $5 and insert language to reference that late fees are determined by the Department pursuant to Subsection 4-2-2(2).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-12-3

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no additional costs to the state associated with the proposed rule amendment because the appropriation fee schedule is higher and will generate more revenue for the state.

❖ LOCAL GOVERNMENTS: There are no additional costs to local government associated with the proposed rule amendment because this is a late fee increase for product registration which local government does not have.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: According to the present rule, the Department's late fee for product registration is $5. However, the Department's appropriation fee schedule is $25. This would be a $20 increase to the small businesses that do not meet registration deadlines with the State of Utah.

COMPLIANCE COSTS FOR AFFECTED PERSONS: According to the present rule, the Department's late fee for product registration is $5. However, the Department's appropriation fee schedule is $25. This would be a $20 increase to the small businesses that do not meet registration deadlines with the State of Utah.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change is in agreement with the fee schedule approved by the legislature for late product registrations. The late fees have increased over the years but this rule has not been updated accordingly. This change is being proposed to bring the rule in compliance with the approved legislative fee schedule. 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:

Kyle Stephens, Clair Allen, or Kathleen Mathews at the above address, by phone at 801-538-7102, 801-538-7180, or 801-538-7103, by FAX at 801-538-7126, 801-538-7189, or 801-538-7126, or by Internet E-mail at kylestephens@utah.gov, ClairAllen@utah.gov, or kmathews@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/15/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2008

AUTHORIZED BY: Leonard M. Blackham, Commissioner

R68. Agriculture and Food, Plant Industry.
R68-2. Utah Commercial Feed Act Governing Feed.
R68-2-3. Registration of Products.

A. All commercial feeds and feed ingredients except those specifically exempted herein shall be officially registered annually with the Utah Department of Agriculture and Food.

1. Application for registration shall be made to the Department upon forms prescribed and provided by the Department and the applicant shall furnish all information requested thereon, being totally responsible for the accuracy and completeness of all required information.

2. A registration fee per product, determined by the department pursuant to Subsection 4-2-2(2) shall be paid by the applicant annually.

3. Each registration is renewable for a period of one year upon payment of the annual renewal fee per product, determined by the department pursuant to Subsection 4-2-2(2) which shall be paid on or before December 31 of each year. If the renewal of a commercial feed or feed ingredient registration is not filed prior to January 1 of any one year, an additional fee determined by the department pursuant to Subsection 4-2-2(2),[~~an additional fee of $5.00 per product~~] shall be assessed per product and added to the original registration fee and shall be paid by the applicant before the registration renewal for that commercial feed or feed ingredient shall be issued.

4. Whenever the name of a feed product is changed or there are changes in the product ingredients, a new registration shall be required. Other labeling changes shall not require registration, but the registrant shall submit copies of all changes to the Department as soon as they are effective. A reasonable time may be permitted to dispose of properly labeled stocks of the old product.

B. Any person who distributes customer-formula feed shall obtain a permit annually from the Department before distribution of such feeds.

1. Application for a customer-formula feed distribution permit shall be made to the Department upon forms prescribed and furnished by the Department accompanied by the annual renewal fee of $50.00.

2. Each renewal fee shall be paid on or before December 31 of each year. If the renewal fee for customer-formula feed distribution permit is not filed prior to January 1 of any one year, an additional fee determined by the department pursuant to Subsection 4-2-2(2),[~~an additional fee of $5.00~~] shall be assessed and added to the original permit fee and shall be paid by the applicant before the permit shall be issued.

KEY: feed contamination
Date of Enactment or Last Substantive Amendment: [~~December 16, 1997~~]2008
Notice of Continuation: September 6, 2005
Authorizing, and Implemented or Interpreted Law: 4-12-3

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Agriculture and Food, Regulatory Services

R70-310

Grade A Pasteurized Milk

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32014
FILED: 10/09/2008, 12:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to update the rule to adopt the 2007 Pasteurized Milk Ordinance (PMO) by reference.

SUMMARY OF THE RULE OR CHANGE: Rule R70-310 provides for the adoption by reference of FDA's document, the Pasteurized Milk Ordinance (PMO), allowing it to become the regulatory language for regulating the dairy industry in the State of Utah. This change updates the PMO to the 2007 edition.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-3-2

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Changes to the 2007 PMO do not impact numbers of inspections nor frequency of inspections and so it is anticipated that there would be no aggregate cost or savings due to this rule amendment to the state budget.

❖ LOCAL GOVERNMENTS: There is no work mandated for local government in the PMO.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small business lobbyists have reviewed the 2007 PMO and believe there is no negative fiscal impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: National Dairy Leaders representing small and large dairy facilities have reviewed and evaluated the 2007 PMO and have concluded that there is no increase in costs to their industry.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: National Dairy Leaders representing small and large dairy facilities have reviewed and evaluated the 2007 PMO and have concluded that there is no increase in costs to their industry. Leonard M. Blackham, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Don McClellan, Kathleen Mathews, Richard W Clark, or Kyle Stephens at the above address, by phone at 801-538-7145, 801-538-7103, 801-538-7150, or 801-538-7102, by FAX at 801-538-7126, 801-538-7126, 801-538-7126, or 801-538-7126, or by Internet E-mail at dmcclellan@utah.gov, kmathews@utah.gov, RICHARDWCLARK@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 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: Leonard M. Blackham, Commissioner

R70. Agriculture and Food, Regulatory Services.
R70-310. Grade A Pasteurized Milk.
R70-310-2. Adoption of USPHS Ordinance.

The Grade A Pasteurized Milk Ordinance, [~~2005~~]2007 Recommendations of the United States Public Health Service/Food and Drug Administration, is hereby adopted and incorporated by reference within this rule. This document is available for public inspection, during normal working hours, and may be reviewed at the main office of the Utah Department of Agriculture and Food, 350 No. Redwood Road, SLC, UT 84116.

R70-310-4. Penalty.

Violation of any portion of the Grade A Pasteurized Milk Ordinance [~~2005~~]2007 recommendation may result in civil or criminal action, pursuant to Section 4-2-15.

KEY: [~~food~~]dairy inspections
Date of Enactment or Last Substantive Amendment: [~~July 2, 2004~~]2008
Notice of Continuation: July 9, 2004
Authorizing, and Implemented or Interpreted Law: 4-2-2

♦ ♦

Agriculture and Food, Regulatory Services

R70-910

Voluntary Registration of Servicemen and Service Agencies for Commercial Weighing and Measuring Devices

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31992
FILED: 10/02/2008, 07:52

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to improve the effectiveness of the state mandate to assure that commercial weighing and measuring devices are properly placed into service and maintained.

SUMMARY OF THE RULE OR CHANGE: This rule: a) makes registration a requirement rather than a voluntary action; b) requires registered service persons to demonstrate competency every three years by attending a free state-provided training course and passing an exam; c) removes the requirement for service agencies to be registered; d) requires security seals to be submitted; and e) requires the Department to notify the employer whenever a registration is suspended or revoked.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 4-9-2 and 4-9-5.4

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no impact to the state budget because the Division will internally reallocate resources from inspections to education and training services.

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

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The rule should provide cost savings for petroleum retailers and consumers. An aggregate savings of $150 annually to the service agencies in Utah.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Registered service persons will spend about four hours of their time every three years to sit for the training course and take the exam.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Implementation of this rule will improve the overall effectiveness of the Weights and Measure program and will provide added assurances that both the seller and buyer have equity in the marketplace. Leonard M. Blackham, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Richard W Clark, Kathleen Mathews, Brett Gurney, or Kyle Stephens at the above address, by phone at 801-538-7150, 801-538-7103, 801-538-7158, or 801-538-7102, by FAX at 801-538-7126, 801-538-7126, 801-538-7126, or 801-538-7126, or by Internet E-mail at RICHARDWCLARK@utah.gov, kmathews@utah.gov, bgurney@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 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: Leonard M. Blackham, Commissioner

R70. Agriculture and Food, Regulatory Services.
R70-910. [~~Voluntary~~]Registration of [~~Servicemen~~]Servicepersons [~~and Service Agencies~~]for Commercial Weighing and Measuring Devices.
R70-910-1. Authority.

Promulgated under Section 4-9-2.

R70-910-2. Policy.

(1) It shall be the policy of the Division of Regulatory Services, Weights and Measures Program, of the Utah Department of Agriculture and Food to accept [~~voluntary~~]registration of[~~:~~

~~A.~~] an individual [~~and/or~~]who:

(a)[~~B. an agency that p~~]Provides acceptable evidence of all business licenses required by the applicable cities, counties or states to conduct business, if self-employed, or his employer's if not self-employed; provides acceptable evidence as demonstrated by attending Department of Agriculture and Food provided training and successfully passing an exam administered by the department, that [~~he or it~~]she is fully qualified to install, service, repair, or recondition a commercial weighing or measuring device[~~;~~] and has a thorough working knowledge of all appropriate weights and measures laws, orders, rules, and regulations; and

(b) has possession of, or has accessible for his use, weights and measures standards and testing equipment certified by the Department of Agriculture and Food to be appropriate in design and capacity.[~~This policy shall in no way preclude or limit the right and privilege of any qualified individual or agency not registered with the Department of Agriculture and Food to install, service, repair, or recondition a commercial weighing or measuring device.~~]

(2) It shall be unlawful for any individual to place into public or commercial service any weighing or measuring device prior to being tested and sealed by a registered serviceperson.

R70-910-3. Definitions.

[~~A.~~](1) "Registered [~~Servicemen~~]Serviceperson" [~~shall be construed to~~]means any individual who for hire, award, commission, or any other payment of any kind, installs, services, repairs, [~~or~~]reconditions, calibrates or places into service a commercial weighing or measuring device, and who is [~~voluntarily registers himself as such~~]registered [~~with~~]by the Department of Agriculture and Food to perform these services.

[~~B.~~](2) "[~~Registered~~]Service Agency"[~~shall be construed to~~] means any agency, firm, company, or corporation which, for hire, award, commission, or any other payment of any kind, installs, services, repairs, [~~or~~]reconditions, calibrates or places into service a commercial weighing or measuring device[~~, and which voluntarily registers itself as such with the Department of Agriculture and Food. Under agency registration, identification of individual servicemen shall be required~~].

[~~C.~~](3) "Commercial Weighing and Measuring Device" [~~shall include~~]means any weight or measure or weighing or measuring device commercially used or employed in establishing the size, quantity, extent, area, or measurement of quantities, things, product, or articles for distribution or consumption, purchased, offered or submitted for

sale, hire, or award or in computing any basic charge or payment for services rendered on the basis of weight or measure, and shall also include any accessory attached to or used in connection with a commercial weighing or measuring device when such accessory is so designed or installed that its operation affects, or may affect, the accuracy of the device.

(4) "Security Seal" means a uniquely identifiable physical seal, such as a lead-and-wire seal or other type of locking seal, or similar apparatus attached to a weighing or measuring device for protection against or indication of access to adjustment.

(5) "Placed in service report" means a report, completed on a department form for declaring that a commercial weighing or measuring device has been put into service.

R70-910-4. Reciprocity.

The Department of Agriculture and Food may enter into a reciprocal agreement with any other State or States that have similar [~~voluntary~~]registration policies. Under such agreement, the [~~R~~]registered [~~Servicemen~~]servicepersons [~~and the Registered Service Agencies~~]of the States party to the reciprocal agreement are granted full reciprocal authority, including reciprocal recognition of certification of standards and testing equipment, in all states party to such agreement.

R70-910-5. Registration Fee.

Upon application for and renewal of registration, the applicant shall pay to the Department of Agriculture and Food a registration fee determined by the department pursuant to subsection 4-2-2(2) for a [~~R~~]registered [~~Serviceman~~]serviceperson[~~ and/or Registered Service Agency~~]. Registration shall expire December 31 of each year, and shall be renewed annually.

R70-910-6. [~~Voluntary~~]Registration.

(1) An individual [~~or agency~~]may apply for [~~voluntary~~]registration to place into service commercial weighing [~~devices~~]or measuring devices on the Department of Agriculture and Food's[~~an~~] application form[~~ supplied by the Department of Agriculture and Food. Said form, duly signed and witnessed, shall include certification by the applicant that the individual or agency is fully qualified to install, service, repair, or recondition such devices as specified upon registration; has in possession, or available for his use, all necessary testing equipment and standards; and has full knowledge of all appropriate weights and measures laws, orders, rules, and regulation~~]. An applicant also shall submit appropriate evidence [~~or references as to qualifications.~~]of having passed a department approved exam that measures the applicant's knowledge of device installation, service, repair and maintenance and applicable laws, orders, rules and regulations.

(2) The department shall provide a device service training class and administer a proficiency examination. The proficiency examination will test the basic knowledge required for competency as a serviceperson. The passing score on the examination shall be above 80%.

(3) An examinee who fails the device service proficiency examination shall retake the training class in order to retake the examination.

(4) The department may revise the examination to address knowledge of changes in the law or technology.

(5) Training class attendance and successful completion of the examination may be used to apply for a Certificate of Registration for three successive registration cycles.

(6) Servicepersons who are employed by a service agency that provides training shall notify the department and shall have up to 30 days to become registered.

(a) Beginning January 1, 2009, the department shall provide a class and examination opportunity for new servicepersons within two weeks of notification.

R70-910-7. Certificate of Registration.

Upon receipt and acceptance of a properly executed application form, the Department of Agriculture and Food shall issue to the applicant a "Certificate of Registration," including an assigned registration number, which shall remain effective until returned by the applicant, withdrawn by the Department of Agriculture and Food, or registration expires.

R70-910-8. Privileges of a [~~Voluntary~~]Registrant.

The bearer of a Certificate of Registration shall have the authority to:

(1) [~~r~~]Remove an official rejection tag or mark placed on a weighing or measuring device by the authority of the Department of Agriculture and Food; and

(2) [~~p~~]Place in service, until such time as an official examination can be made, a commercial weighing or measuring device that has been newly installed, routinely calibrated or officially rejected[~~;~~].[~~ and place in service, until such time as an official examination can be made, a new or used weighing or measuring device.~~]

R70-910-9. Place in Service Report.

The Department of Agriculture and Food shall [~~furnish~~]make available to each [~~R~~]registered [~~Serviceman~~]serviceperson [~~and Registered Service Agency~~]the official [~~with a supply of report forms to be known as "~~]Placed in Service Report[~~s"~~]form. [~~Such a form shall be executed in triplicate, shall include the assigned registration number, and shall be signed by a Registered Serviceman or by a serviceman representing a~~]A placed in service report shall be submitted within 24 hours to the department by the serviceperson [~~Registered Agency~~]for each rejected device restored to service and for each newly installed device placed in service. [~~Within 24 hours after a device is restored to service, or placed in service, the original of the properly executed Place in Service Report, together with any official rejection tag removed from the device,~~]All official rejection tags or marks removed from the device shall be mailed to the Department of Agriculture and Food, the Division of Regulatory Services, Weights and Measures Program, 350 North Redwood Rd, PO Box 146500, Salt Lake City, UT 84114-6500. [~~The~~]A duplicate copy of the report shall be retained by the owner or operator of the device, and [~~the triplicate~~]a duplicate copy of the report shall be retained by the [~~R~~]registered [~~Serviceman~~]serviceperson or [~~Agency~~]her employer.

R70-910-10. Standards and Testing Equipment.

(1) A [~~R~~]registered [~~Serviceman~~]serviceperson [~~and a Registered Service Agency~~]shall submit, at least biennially to the Department of Agriculture and Food, for examination and certification, any testing equipment and standards that are used, or are to be used, in calibrating or placing into service a commercial weighing and measuring device[~~the performance of the service and testing functions with respect to weighing and measuring devices for which competence is registered~~].

(2) A [~~R~~]registered [~~Serviceman~~]serviceperson [~~or Agency shall~~]may not use, in officially servicing commercial weighing or

measuring devices, any standards or testing equipment that have not been certified by the Department of Agriculture and Food.

R70-910-11. Security Seals Required to be Submitted.

(1) A registered serviceperson shall submit to the department the seal that she will use.

(A) If the seal belongs to the registered serviceperson's employer, the serviceperson shall identify the employer.

(2) When a registered serviceperson changes his seal, he shall submit the seal and employer's identification to the department prior to it being used.

(3) A registered serviceperson who uses their own seal shall submit that seal to the department.

(4) When a registered serviceperson changes their own seal, he or she shall submit the seal to the department prior to it being used.

R70-910-12. Qualification to Service Heavy Capacity Scales.

No registered [~~service agency or serviceman~~]serviceperson shall be qualified to place in service or remove a [~~R~~]rejection [~~T~~]tag from a heavy capacity scale unless [~~such registered service agency or serviceman~~]he has adequate testing weights certified by the Utah Department of Agriculture and Food, Division of Regulatory Services, Weights and Measures Program. Adequate testing weights shall be deemed to be 10,000 pounds of test weights or one-fourth the capacity of the scale, whichever is less.

R70-910-[~~12~~]13. [~~Revocation of Certificate of Registration.~~]Unlawful Acts Specified.

(1) It shall be unlawful for any non-registered individual to:

(a) place into public or commercial service a weighing or measuring device; or

(b) to represent themselves as being registered as a serviceperson by the department.[~~The Department of Agriculture and Food may, for good cause, after careful investigation, consideration, and due notice and process which shall include an opportunity for a hearing, suspend or revoke a Certificate of Registration, Section 4-1-5 and Section 63-46b.~~]

R70-910-[~~13~~]14. [~~Publication of Lists of Registered Servicemen and Registered Service Agencies.~~]Suspension or Revocation of Certificate of Registration.

The Department of Agriculture and Food may, for good cause, after careful investigation, consideration, and due notice and process which shall include an opportunity for a hearing, suspend or revoke a Certificate of Registration, Section 4-1-5 and Section 63-46b.[~~The Department of Agriculture and Food shall publish, and may supply upon request, lists of Registered Servicemen and Registered Service Agencies.~~]

R70-910-15. Publication of Lists of Service Agencies and Registered Servicepersons.

The Department of Agriculture and Food shall publish, and may supply upon request, lists of registered servicepersons and those service agencies which commit to using registered servicepersons to calibrate commercial weighing and measuring devices or place them in service. The department may remove from the lists a service agency found to have used a non-registered service person to calibrate or place into service a commercial weighing or measuring device.

R70-910-16. Notification of Service Agency.

Whenever the voluntary registration of a service person is suspended or revoked, the department shall notify the known employing service agency within three working days.

R70-910-17. Notification of Changed Equipment.

Whenever a voluntarily registered serviceperson changes any testing equipment and standards that are used, or are to be used, in calibrating or placing into service a commercial weighing and measuring device, the serviceperson shall notify and provide proof to the department that the testing equipment or standard has been approved by an official state metrologist.

KEY: inspections, weights and measures
Date of Enactment or Last Substantive Amendment: [~~February 12, 2002~~]December 8, 2008
Notice of Continuation: November 3, 2005
Authorizing, and Implemented or Interpreted Law: 4-9-2

♦ ♦

Commerce, Occupational and Professional Licensing

R156-56

Utah Uniform Building Standard Act Rules

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 32001
FILED: 10/06/2008, 07:51

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division is proposing changes to the rule to adopt amendments to the building codes approved by the Uniform Building Code Commission after review by various subcommittees.

SUMMARY OF THE RULE OR CHANGE: In Section R156-56-401, adds a three-digit alphabetical character for Apple Valley since they are now issuing their own building permits instead of having Washington County issue them. In Subsection R156-56-801(18), a current state amendment which requires elevator lobbies in certain buildings is being deleted. Deleting the current amendment to the International Building Code (IBC) will give a building owner the option to design and build a building that is between four and seven floors high without an elevator lobby provided all other requirements are met. The remaining subsections in this section have been renumbered.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 58-56-1 and 58-56-19, and Subsections 58-1-106(1)(a), 58-5-202(1)(a), 58-56-4(2), and 58-56-6(2)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division has determined that there should be no direct effect on the state budget as a result of the proposed amendments. However, there may be an indirect effect on the state budget when the state is involved in construction projects that meet the criteria and it could result in potential savings.

❖ LOCAL GOVERNMENTS: The Division has determined that there should be no direct effect on local governments as a result of the proposed amendments. However, there may be an indirect effect on local governments when a local government is involved in construction projects that meet the criteria and it could result in potential savings.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Adding the three-digit alphabetical character for Apple Valley for a standardized building permit will not affect the cost to any party. It just reflects which local compliance agency is issuing the building permit. There is a potential cost savings to affected parties, which may include a small business, who would choose to design and build a building without an elevator lobby. It is impossible for the Division to determine an aggregate impact because of the variable number of persons this would affect and the variable savings that each builder may experience.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division does not anticipate any additional costs to affected parties as a result of these proposed amendments. There may be savings of up to several thousands of dollars for persons who design and build buildings between four and seven floors in height. It is impossible for the Division to estimate the number of persons who may be affected by these proposed amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact to businesses anticipated from this rule filing is a savings to builders who no longer would be required to include an elevator lobby in buildings with four to seven stories. The amount of the savings depends on the building at issue. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 11/17/2008 at 9:00 AM, State Office Building, 450 N State St, Room 4112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: F. David Stanley, Director

R156. Commerce, Occupational and Professional Licensing.
R156-56. Utah Uniform Building Standard Act Rules.
R156-56-401. Standardized Building Permit Number.

As provided in Section 58-56-19, beginning on January 1, 2007, any agency issuing a permit for construction within the state of Utah shall use the standardized building permit numbering which includes the following:

(1) The permit number shall consist of 12 digits with the following components in the following order:

(a) digits one, two and three shall be alphabetical characters identifying the compliance agency issuing the permit as specified in the table in Subsection (3);

(b) digits four and five shall be numerical characters indicating the year of permit issuance;

(c) digits six and seven shall be numerical characters indicating the month of permit issuance;

(d) digits eight and nine shall be numerical characters indicating the day of the month on which the permit is issued; and

(e) digits ten, eleven and twelve shall be numerical characters used to distinguish between permits issued by the agency on the same day.

(2) When used in addition to a different permit numbering system, as provided for in Subsection 58-56-19(3)(b), the standardized building permit number shall be clearly identified and labeled as the "state permit number" or "Utah permit number".

(3) The following table establishes the three digit alphabetical character for which the compliance agency shall be identified as provided in Subsection (1)(a):

TABLE
COMPLIANCE AGENCY PERMIT TABLE
FOR STANDARDIZED BUILDING PERMIT
THREE LETTER DESIGNATIONS

Index:
Column 1: City, town, or other compliance agency in which project is located
Column 2: County in which the city, town, or other compliance agency is located
Column 3: City, town or other compliance agency 3 digit designation (Designation is shown for cities, towns, or other compliance agency which issue building permits. If no designation is shown, the building permits for the city, town, or other compliance agency are issued by the county, therefore the county three digit designation should be used)
Column 4: County 3 digit designation

1 City, Town, or other Compliance Agency	2 County	3 City, Town, or other Compliance Agency Designation	4 County[~~or~~] Designation
Adamsville	BEAVER		BVR
Alpine	UTAH	ALP	

Alta	SALT LAKE	ALT	
Altamont	DUCHESNE		DCH
Alton	KANE		KAN
Altonah	DUCHESNE		DCH
Amalga	CACHE		CAC
American Fork	UTAH	AFC	
Aneth	SAN JUAN		SJC
Angle	PIUTE		PIU
Annabella	SEVIER		SEV
Antimony	GARFIELD		GRF
Apple Valley	WASHINGTON	AVC[~~WSC~~]	
Aragonite	TOOELE		TOC
Aurora	SEVIER		SEV
Austin	SEVIER		SEV
Avon	CACHE		CAC
Axtell	SANPETE		SPC
Bacchus	SALT LAKE		SCO
Ballard	UINTAH	BAL	
Bauer	TOOELE		TOC
Bear River	BOX ELDER	BRC	
Beaver City	BEAVER		BEA
BEAVER COUNTY			BVR
Beaver Dam	BOX ELDER		BEC
Benjamin	UTAH		UTA
Benson	CACHE		CAC
Beryl	IRON		IRO
Bicknell	WAYNE		WAY
Big Water	KANE	BWM	
Birdseye	UTAH		UTA
Black Rock	MILLARD		MIL
Blanding	SAN JUAN	BLA	
Bloomington Hills	WASHINGTON	STG (part of St. George)	
Bloomington	WASHINGTON	STG (part of St. George)	
Blue Creek	BOX ELDER		BEC
Bluebell	DUCHESNE		DCH
Bluff	SAN JUAN		SJC
Bluffdale	SALT LAKE	BLU	
Bonanza	UINTAH		UTC
Boneta	DUCHESNE		DCH
Bothwell	BOX ELDER		BEC
Boulder	GARFIELD		GRF
Bountiful	DAVIS	BOU	
BOX ELDER COUNTY			BEC
Brian Head	IRON	BHT	
Bridgeland	DUCHESNE		DCH
Brigham	BOX ELDER	BRI	
Brighton	SALT LAKE		SCO
Brookside	WASHINGTON		WSC
Bryce	GARFIELD		GRF
Bullfrog	KANE		KAN
Burmester	TOOELE		TOC
Burrville	SEVIER		SEV
CACHE COUNTY			CAC
Cache Junction	CACHE		CAC
Caineville	WAYNE		WAY
Callao	JUAB		JUA
Camp Williams	UTAH		UTA
Cannonville	GARFIELD		GRF
CARBON COUNTY			CAR
Carbonville	CARBON		CAR
Castle Dale	EMERY		EMR
Castle Rock	SUMMIT		SUM
Castle Valley	GRAND		GRA
Cedar City	IRON	CEC	
Cedar Creek	BOX ELDER		BEC
Cedar Fort	UTAH	CFT	
Cedar Hills	UTAH	CDH	
Cedar Mountain	TOOELE		TOC
Cedar Springs	BOX ELDER		BEC
Cedar Valley	UTAH		UTA
Cedarview	DUCHESNE		DCH
Center Creek	WASATCH		WAC
Centerfield	SANPETE		SPC
Centerville	DAVIS	CEV	
Central	SEVIER		SEV
Central	WASHINGTON		WSC
Central Valley	SEVIER		SEV
Charleston	WASATCH	CHA	
Chester	SANPETE		SPC
Christinburg	SANPETE		SPC
Christmas Meadows	SUMMIT		SUM
Church Wells	KANE		KAN
Circleville	PIUTE	CIR	
Cisco	GRAND		GRA
Clarkston	CACHE		CAC
Clawson	EMERY		EMR
Clear Lake	MILLARD		MIL
Clearcreek	BOX ELDER		BEC
Clearcreek	CARBON		CAR
Clearfield	DAVIS	CLE	
Cleveland	EMERY		EMR
Clinton	DAVIS	CLI	
Clive	TOOELE		TOC
Clover	TOOELE	RUV(became Rush Valley)	
Coalville	SUMMIT	COA	
College Ward	CACHE		CAC
Collinston	BOX ELDER		BEC
Colton	UTAH		UTA
Copperton	SALT LAKE		SCO
Corinne	BOX ELDER	COR	
Cornish	CACHE		CAC
Cottonwood	SALT LAKE		SCO
Cottonwood Heights	SALT LAKE	CHC	
Cove	CACHE		CAC
Cove Fort	MILLARD		MIL
Crescent	SALT LAKE		SCO
Crescent Junction	GRAND		GRA
Croyden	MORGAN		MRG
DAGGETT COUNTY			DAG
Dameron Valley	WASHINGTON		WSC
Daniels	WASATCH	DAN	
DAVIS COUNTY			DAV
Deer Creek	WASATCH		WAC
Delle	TOOELE		TOC
Delta	MILLARD	DEL	
Deseret	MILLARD		MIL
Deseret Mound	IRON		IRO
Devils Slide	MORGAN		MRG
Deweyville	BOX ELDER	DEW	
Diamond Valley	WASHINGTON		WSC
Div of Facilities Construction and Mgmt	(statewide)	FCM	
Dividend	UTAH		UTA
Draper	SALT LAKE	DRA	
Draper City South	UTAH		UTA
Duchesne City	DUCHESNE	DUC	
DUCHESNE COUNTY			DCH
Duck Creek	KANE		KAN
Dugway (Federal)	TOOELE	XXX	
Dutch John	DAGGETT		DAG
Eagle Mountain	UTAH	EMC	
East Carbon	CARBON	ECC	
East Green River	GRAND		GRA
East Millcreek	SALT LAKE		SCO
Eastland	SAN JUAN		SJC
Echo	SUMMIT		SUM
Eden	WEBER		WEB
Elk Ridge	UTAH	ERC	
Elberta	UTAH		UTA
Elmo	EMERY		EMR
Elsinore	SEVIER		SEV
Elwood	BOX ELDER	ELW	
Emery City	EMERY	EME	
EMERY COUNTY			EMR
Emory	SUMMIT		SUM
Enoch	IRON	ENO	
Enterprise	WASHINGTON	ENT	
Ephraim	SANPETE		SPC
Erda	TOOELE		TOC
Escalante	GARFIELD		GRF
Eskdale	MILLARD		MIL

Etna	BOX ELDER		BEC
Eureka	JUAB	EUR	
Fairfield	UTAH		UTA
Fairmont	SEVIER		SEV
Fairview	SANPETE		SPC
Farmington	DAVIS	FAR	
Farr West	WEBER	FAW	
Faust	TOOELE		TOC
Fayette	SANPETE		SPC
Ferron	EMERY		EMR
Fielding	BOX ELDER	FIE	
Fillmore	MILLARD	FIL	
Flowell	MILLARD		MIL
Fort Duchesne	UINTAH		UTC
Fountain Green	SANPETE		SPC
Francis	SUMMIT	FRA	
Freedom	SANPETE		SPC
Freeport Circle	DAVIS		DAV
Fremont	WAYNE		WAY
Fremont Junction	SEVIER		SEV
Fruit Heights	DAVIS	FRU	
Fruitland	DUCHESNE		DCH
Fry Canyon	SAN JUAN		SJC
Gandy	MILLARD		MIL
Garden City	RICH	GAR	
Garfield	SALT LAKE		SCO
GARFIELD COUNTY			GRF
Garland	BOX ELDER	GRL	
Garrison	MILLARD		MIL
Geneva	UTAH	GEV	
Genola	UTAH	GEN	
Glendale	KANE		KAN
Glenwood	SEVIER		SEV
Goldhill	TOOELE		TOC
Goshen	UTAH	GOS	
Grafton	WASHINGTON	ROC (part of Rock-ville)	
GRAND COUNTY		GRA	
Granite	SALT LAKE		SCO
Grantsville	TOOELE	GTV	
Green River	EMERY		EMR
Greenville	BEAVER		BVR
Greenwich	PIUTE		PIU
Greenwood	MILLARD		MIL
Grouse Creek	BOX ELDER		BEC
Grover	WAYNE		WAY
Gunlock	WASHINGTON		WSC
Gunnison	SANPETE		SPC
Gusher	UINTAH		UTC
Hailstone	WASATCH		WAC
Halls Crossing	SAN JUAN		SJC
Hamilton Fort	IRON		IRO
Hamlin Valley	IRON		IRO
Hanksville	WAYNE		WAY
Hanna	DUCHESNE		DCH
Harrisville	WEBER	HAR	
Hatch	GARFIELD		GRF
Hatton	MILLARD		MIL
Heber	WASTACH	HEB	
Helper	CARBON		CAR
Henefer	SUMMIT	HEN	
Henrieville	GARFIELD		GRF
Herriman	SALT LAKE	HER	
Hiawatha	CARBON		CAR
Hideway Valley	SANPETE		SPC
Highland	UTAH	HIG	
Hildale	WASHINGTON	HIL	
Hinckley	MILLARD	HIN	
Hite	SAN JUAN		SJC
Holden	MILLARD	HOL	
Holladay	SALT LAKE	HOD	
Honeyville	BOX ELDER	HON	
Hooper	WEBER	HOO	
Hot Springs	BOX ELDER		BEC
Hovenweep Mountain	SAN JUAN		SJC
Howell	BOX ELDER	HPW	
Hoytsville	SUMMIT		SUM
Huntington	EMERY		EMR
Huntsville	WEBER	HTV	
Hurricane	WASHINGTON	HUR	
Hyde Park	CACHE	HPC	
Hyrum	CACHE		CAC
Ibapah	TOOELE		TOC
Indianola	SANPETE		SPC
Ioka	DUCHESNE		DCH
IRON COUNTY			IRO
Iron Springs	IRON		IRO
Ivins	WASHINGTON	INI	
Jensen	UINTAH		UTC
Jericho	JUAB		JUA
Joseph	SEVIER		SEV
JUAB COUNTY			JUA
Junction	PIUTE	JUN	
Kamas	SUMMIT	KAM	
Kanab	KANE	KNB	
Kanarraville	IRON		IRO
KANE COUNTY			KAN
Kaneville	WEBER		WEC
Kanosh	MILLARD	KNS	
Kayenta	WASHINGTON	INI (part of Ivins)	
Kaysville	DAVIS	KAY	
Kearns	SALT LAKE		SCO
Keetley	WASATCH		WAC
Kelton	BOX ELDER		BEC
Kenilworth	CARBON		CAR
Kingston	PIUTE	KIN	
Knolls	TOOELE		TOC
Koosharem	SEVIER		SEV
La Sal	SAN JUAN		SJC
La Verkin	WASHINGTON	LAV	
Lake Powell	SAN JUAN		SJC
Lakepoint	TOOELE		TOC
Lakeshore	UTAH		UTA
Lakeside	BOX ELDER		BEC
Laketown	RICH		RIC
Lakeview	UTAH		UTA
Lapoint	UINTAH		UTC
Lark	SALT LAKE		SCO
Lawrence	EMERY		EMR
Layton	DAVIS	LAY	
Leamington	MILLARD	LEA	
Leeds	WASHINGTON	LEE	
Leeton	UINTAH		UTC
Lehi	UTAH	LEH	
Leland	UTAH		UTA
Leota	UINTAH		UTC
Levan	JUAB	LEV	
Lewiston	CACHE	LEW	
Liberty	WEBER		WEC
Lincoln	TOOELE		TOC
Lindon	UTAH	LIN	
Little Mountain	WEBER		WEC
Littleton	MORGAN		MRG
Loa	WAYNE	LOA	
Logan	CACHE	LOG	
Long Valley	KANE		KAN
Losepa	TOOELE		TOC
Low	TOOELE		TOC
Lucin	BOX ELDER		BEC
Lund	IRON		IRO
Lyman	WAYNE		WAY
Lynn	BOX ELDER		BEC
Lynndyl	MILLARD	LYN	
Madsen	BOX ELDER		BEC
Maeser	UINTAH		UTC
Magna	SALT LAKE		SCO
Mammoth	JUAB		JUA
Manderfield	BEAVER		BVR
Manila	DAGGETT	MNL	
Manti	SANPETE		SPC
Mantua	BOX ELDER	MNT	
Mapleton	UTAH	MAP	
Marion	SUMMIT		SUM
Marriott-Slaterville	WEBER	MSC	

Marysvale	PIUTE	MAR
Mayfield	SANPETE	SPC
Meadow	MILLARD	MEA
Meadowville	RICH	RIC
Mendon	CACHE	MEN
Mexican Hat	SAN JUAN	SJC
Middleton	WASHINGTON	STG (part of St. George)
Midvale	SALT LAKE	MID
Midway	WASATCH	MWC
Milburn	SANPETE	SPC
Milford	BEAVER	MLF
Mill Fork	UTAH	UTA
MILLARD COUNTY		MIL
Mills	JUAB	JUA
Mills Junction	TOOELE	TOC
Millville	CACHE	CAC
Milton	MORGAN	MRG
Minersville	BEAVER	BVR
Moab	GRAND	MOA
Modena	IRON	IRO
Mohrland	EMERY	EMR
Molen	EMERY	EMR
Mona	JUAB	MON
Monarch	DUCHESNE	DCH
Monroe	SEVIER	SEV
Montezuma Creek	SAN JUAN	SJC
Monticello	SAN JUAN	MNC
Monument Valley	SAN JUAN	SJC
Moore	EMERY	EMR
Morgan City	MORGAN	MOR
MORGAN COUNTY		MRG
Moroni	SANPETE	SPC
Mt Carmel	KANE	KAN
Mt Emmons	DUCHESNE	DCH
Mt Green	MORGAN	MRG
Mt Home	DUCHESNE	DCH
Mt Olympus	SALT LAKE	SCO
Mt Pleasant	SANPETE	SPC
Mt Sterling	CACHE	CAC
Murray	SALT LAKE	MUR
Myton	DUCHESNE	DCH
Naples	UINTAH	NAP
National	CARBON	CAR
Navaho Lake	DUCHESNE	DCH
Neola	DUCHESNE	DCH
Nephi	JUAB	NEP
New Harmony	WASHINGTON	WSC
Newcastle	IRON	IRO
Newton	CACHE	NEW
Nibley	CACHE	NIB
North Logan	CACHE	NLC
North Ogden	WEBER	NOC
North Salt Lake	DAVIS	NSL
Oak City	MILLARD	OAK
Oakley	SUMMIT	OKL
Oasis	MILLARD	MIL
Ogden	WEBER	OGD
Ogden City School Dist	WEBER	OSD
Ophir	TOOELE	OPH
Orangeville	EMERY	ORA
Orderville	KANE	KAN
Orem	UTAH	ORE
Orrey	WAYNE	WAY
Ouray	UINTAH	UTC
Palmyra	UTAH	UTA
Panguitch	GARFIELD	GRF
Paradise	CACHE	CAC
Paragonah	IRON	IRO
Park City	SUMMIT	PAC
Park City East	WASATCH	WAC
Park Valley	BOX ELDER	BEC
Parowan	IRON	IRO
Partoun	JUAB	JUA
Payson	UTAH	PAY
Penrose	BOX ELDER	BEC
Peoa	SUMMIT	SUM
Perry	BOX ELDER	PER
Petersboro	CACHE	CAC
Peterson	MORGAN	MRG
Pickleville	RICH	RIC
Pigeon Hollow Junction	SANPETE	SPC
Pine Valley	WASHINGTON	WSC
Pineview	SUMMIT	SUM
Pinto	WASHINGTON	WSC
Pintura	WASHINGTON	WSC
PIUTE COUNTY		PIU
Plain City	WEBER	PLA
Pleasant Grove	UTAH	PGC
Pleasant View	WEBER	PVC
Plymouth	BOX ELDER	PLY
Portage	BOX ELDER	BEC
Porterville	MORGAN	MRG
Price	CARBON	PRI
Promontory	BOX ELDER	BEC
Providence	CACHE	PRV
Provo	UTAH	PRO
Provo Canyon	UTAH	UTA
Randlett	UINTAH	UTC
Randolph	RICH	RAN
Redmond	SEVIER	RED
Redmonton	BOX ELDER	BEC
RICH COUNTY		RIC
Richfield	SEVIER	RCF
Richmond	CACHE	CAC
Richville	MORGAN	MRG
River Heights	CACHE	CAC
Riverdale	WEBER	RVD
Riverside	BOX ELDER	BEC
Riverton	SALT LAKE	RVT
Rockville	WASHINGTON	ROC
Rocky Ridge Town	JUAB	ROR
Roosevelt	DUCHESNE	ROO
Rosette	BOX ELDER	BEC
Round Valley	RICH	RIC
Roy	WEBER	ROY
Rubys Inn	GARFIELD	GRF
Rush Valley	TOOELE	RUV
Sage Creek Junction	RICH	RIC
Salem	UTAH	SLM
Salina	SEVIER	SEV
Salt Lake City	SALT LAKE	SLC
SALT LAKE COUNTY		SCO
Salt Lake Suburban Sanitary District #1	SALT LAKE	SSD
Salt Springs	TOOELE	TOC
Samak	SUMMIT	SUM
SAN JUAN COUNTY		SJC
Sandy	SALT LAKE	SAN
SANPETE COUNTY		SPC
Santa Clara	WASHINGTON	SAC
Santaquin	UTAH	STQ
Saratoga Springs	UTAH	SRT
Scipio	MILLARD	SCI
Scofield	CARBON	CAR
Sevier	SEVIER	SEV
SEVIER COUNTY		SEV
Shivwits (Federal)	WASHINGTON	YYY
Sigurd	SEVIER	SEV
Silver City	JUAB	JUA
Silver Creek Junction	SUMMIT	SUM
Silver Fork	SALT LAKE	SCO
Silver Reef	WASHINGTON	LEE (part of Leeds)
Smithfield	CACHE	SMI
Snowbird	SALT LAKE	SCO
Snowville	BOX ELDER	SNO
Snyderville	SUMMIT	SUM
Soldier Summit	WASATCH	WAC
South Jordan	SALT LAKE	SOJ
South Ogden	WEBER	SOO
South Salt Lake	SALT LAKE	SSL
South Weber	DAVIS	SWC
Spanish Fork	UTAH	SFC
Spring City	SANPETE	SPC

Spring Glen	CARBON		CAR
Spring Lake	UTAH		UTA
Springdale	WASHINGTON	SPD	
Springville	UTAH	SPV	
St George	WASHINGTON	STG	
St John	TOOELE	RUV (became Rush Valley)	
Standrod	BOX ELDER		BEC
Stansbury Park	TOOELE		TOC
Sterling	SANPETE		SPC
Stockmore	DUCHESNE		DCH
Stockton	TOOELE	STO	
Stoddard	MORGAN		MRG
Sugarville	MILLARD		MIL
Summit	IRON		IRO
SUMMIT COUNTY			SUM
Summit Park	SUMMIT		SUM
Summit Point	SAN JUAN		SJC
Sundance	UTAH		UTA
Sunnyside	CARBON		CAR
Sunset	DAVIS	SUN	
Sutherland	MILLARD		MIL
Swan Creek	TOOELE		TOC
Syracuse	DAVIS	SYR	
Tabiona	DUCHESNE		DCH
Talmage	DUCHESNE		DCH
Taylor	WEBER		WEC
Taylorsville	SALT LAKE	TAY	
Teasdale	WAYNE		WAY
Thatcher	BOX ELDER	THA	
Thistle	UTAH		UTA
Thompson Springs	GRAND		GRA
Ticaboo	GARFIELD		GRF
Timpe	TOOELE		TOC
Tintic	JUAB		JUA
Tooele City	TOOELE	TOO	
TOOELE COUNTY			TOC
Toquerville	WASHINGTON	TOQ	
Torrey	WAYNE		WAY
Tremonton	BOX ELDER	TRE	
Trenton	CACHE		CAC
Tridell	UINTAH		UTC
Tropic	GARFIELD		GRF
Trout Creek	JUAB		JUA
Tucker	UTAH		UTA
Ucolo	SAN JUAN		SJC
Uintah	WEBER	UIN	
UINTAH COUNTY			UTC
Upalco	DUCHESNE		DCH
Upton	SUMMIT		SUM
UTAH COUNTY			UTA
Uvada	IRON		IRO
Venice	SEVIER		SEV
Vernal	UINTAH	VER	
Vernon	TOOELE		TOC
Veyo	WASHINGTON		WSC
Vineyard	UTAH	VIN	
Virgin	WASHINGTON	VIR	
Wahsatch	SUMMIT		SUM
Wales	SANPETE		SPC
Wallsburg	WASATCH		WAC
Wanship	SUMMIT		SUM
Warren	WEBER		WEC
WASATCH COUNTY			WAC
Washington City	WASHINGTON	WAS	
Washakie	BOX ELDER		BEC
Washington Terrace	WEBER	WAT	
WASHINGTON COUNTY			WSC
WAYNE COUNTY			WAY
WEBER COUNTY			WEC
Webster Cove Junction	CACHE		CAC
Wellington	CARBON		CAR
Wellsville	CACHE		CAC
Wendover	TOOELE	WEN	
West Bountiful	DAVIS	WEB	
West Haven	WEBER	WEH	
West Jordan	SALT LAKE	WEJ	
West Point	DAVIS	WEP	
West Valley	SALT LAKE	WVC	
West Warren	WEBER		WEC
West Weber	WEBER		WEC
Westwater	GRAND		GRA
Whiterocks	UINTAH		UTC
Widtsoe Junction	GARFIELD		GRF
Wildwood	UTAH		UTA
Willard	BOX ELDER	WIL	
Wilson	WEBER		WEC
Wins	WASHINGTON		WSC
Woodland Hills	UTAH	WHO	
Woodland	SUMMIT		SUM
Woodruff	RICH		RIC
Woodrow	MILLARD		MIL
Woods Cross	DAVIS	WXC	
Woodside	EMERY		EMR
Yost	BOX ELDER		BEC
Young Ward	CACHE		CAC
Zane	IRON		IRO

R156-56-801. Statewide Amendments to the IBC.

The following are adopted as amendments to the IBC to be applicable statewide:

(1) All references to the ICC Electrical Code are deleted and replaced with the National Electrical Code adopted under Subsection R156-56-701(1)(b).

(2) Section 101.4.1 is deleted and replaced with the following:

101.4.1 Electrical. The provisions of the National Electrical Code (NEC) shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

(3) Section 106.3.2 is deleted and replaced with the following:

106.3.2 Previous approval. If a lawful permit has been issued and the construction of which has been pursued in good faith within 180 days after the effective date of the code and has not been abandoned, then the construction may be completed under the code in effect at the time of the issuance of the permit.

(4) In Section 109, a new section is added as follows:

109.3.5 Weather-resistive barrier and flashing. An inspection shall be made of the weather-resistive barrier as required by Section 1403.2 and flashing as required by Section 1405.3 to prevent water from entering the weather-resistant exterior wall envelope.

The remaining sections will be renumbered as follows:

109.3.6 Lath or gypsum board inspection

109.3.7 Fire-resistant penetrations

109.3.8 Energy efficiency inspections

109.3.9 Other inspections

109.3.10 Special inspections

109.3.11 Final inspection.

(5) Section 114.1 is deleted and replaced with the following:

114.1 Authority. Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or other pertinent laws or ordinances or dangerous or unsafe, the building official is authorized to stop work.

(6) In Section 202, the definition for Assisted Living Facility is deleted and replaced with the following:

ASSISTED LIVING FACILITY. See Section 308.1.1.

(7) Section 305.2 is deleted and replaced with the following:

305.2 Day care. The building or structure, or portion thereof, for educational, supervision, child day care centers, or personal care services of more than four children shall be classified as a Group E occupancy. See Section 421 for special requirements for Group E child day care centers.

Exception: Areas used for child day care purposes with a Residential Certificate, Family License or Family Group License may be located in a Group R-2 or R-3 occupancy as provided in Section 310.1 or shall comply with the International Residential Code in accordance with Section 101.2.

Child day care centers providing care for more than 100 children 2 1/2 years or less of age shall be classified as Group I-4.

(8) In Section 308 the following definitions are added:

308.1.1 Definitions. The following words and terms shall, for the purposes of this section and as used elsewhere in this code, have the meanings shown herein.

TYPE I ASSISTED LIVING FACILITY. A residential facility licensed by the Utah Department of Health that provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the assistance of another person.

TYPE II ASSISTED LIVING FACILITY. A residential facility licensed by the Utah Department of Health that provides an array of coordinated supportive personal and health care services to residents who meet the definition of semi-independent.

SEMI-INDEPENDENT. A person who is:

A. Physically disabled but able to direct his or her own care; or

B. Cognitively impaired or physically disabled but able to evacuate from the facility with the physical assistance of one person.

RESIDENTIAL TREATMENT/SUPPORT ASSISTED LIVING FACILITY. A residential treatment/support assisted living facility which creates a group living environment for four or more residents licensed by the Utah Department of Human Services, and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person.

(9) Section 308.2 is deleted and replaced with the following:

308.2 Group I-1. This occupancy shall include buildings, structures, or parts thereof housing more than 16 persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This group shall include, but not be limited to, the following: residential board and care facilities, type I assisted living facilities, residential treatment/support assisted living facility, half-way houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug centers and convalescent facilities. A facility such as the above with five or fewer persons shall be classified as a Group R-3 or shall comply with the International Residential Code in accordance with Section 101.2. A facility such as above, housing at least six and not more than 16 persons, shall be classified as a Group R-4.

(10) Section 308.3 is deleted and replaced with the following:

308.3 Group I-2. This occupancy shall include buildings and structures used for medical, surgical, psychiatric, nursing or custodial care on a 24-hour basis of more than three persons who are not capable of self-preservation. This group shall include, but not be limited to the following: hospitals, nursing homes (both intermediate care facilities and skilled nursing facilities), mental hospitals, detoxification facilities, ambulatory surgical centers with two or more operating rooms where care is less than 24 hours, outpatient medical care facilities for ambulatory patients (accommodating more than five such patients in each tenant space) which may render the patient incapable of unassisted self-preservation, and type II assisted living facilities. Type II assisted living facilities with five or fewer persons shall be classified as a Group R-4. Type II assisted living facilities as defined in 308.1.1 with at least six and not more than sixteen residents shall be classified as a Group I-1 facility.

(11) Section 308.3.1 is deleted and replaced with the following:

308.3.1 Child care facility. A child care facility that provides care on a 24 hour basis to more than four children 2 1/2 years of age or less shall be classified as Group I-2.

(12) Section 308.5 is deleted and replaced with the following:

308.5 Group I-4, day care facilities. This group shall include buildings and structures occupied by persons of any age who receive custodial care less than 24 hours by individuals other than parents or guardians, relatives by blood, marriage, or adoption, and in a place other than the home of the person cared for. A facility such as the above with four or fewer persons shall be classified as an R-3 or shall comply with the International Residential Code in accordance with Section 101.2. Places of worship during religious functions and Group E child day care centers are not included.

(13) Section 308.5.2 is deleted and replaced with the following:

308.5.2 Child care facility. A facility that provides supervision and personal care on less than a 24 hour basis for more than 100 children 2 1/2 years of age or less shall be classified as Group I-4.

(14) Section 310.1 is deleted and replaced with the following:

310.1 Residential Group "R". Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classed as an Institutional Group I. Residential occupancies shall include the following:

R-1: Residential occupancies where the occupants are primarily transient in nature (less than 30 days) including: Boarding Houses (transient) and congregate living facilities, Hotels (transient), and Motels (transient).

Exception: Boarding houses and congregate living facilities accommodating 10 persons or less shall be classified as a Residential Group R-3 or shall comply with the International Residential Code in accordance with Section 101.2.

R-2: Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including: Apartment Houses, Boarding houses (not transient) and congregate living facilities, Convents, Dormitories, Fraternities and Sororities, Monasteries, Vacation timeshare properties, Hotels (non transient), and Motels (non transient).

Exception: Boarding houses and congregate living facilities accommodating 10 persons or less shall be classified as a Residential Group R-3 or shall comply with the International Residential Code in accordance with Section 101.2.

R-3: Residential occupancies where the occupants are primarily permanent in nature and not classified as R-1, R-2, R-4 or I and where buildings do not contain more than two dwelling units, as applicable in Section 101.2, or adult and child care facilities that provide accommodations for five or fewer persons of any age for less than 24 hours. Adult and child care facilities that are within a single family home are permitted to comply with the International Residential Code in accordance with Section 101.2. Areas used for day care purposes may be located in a residential dwelling unit under all of the following conditions:

1. Compliance with the Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.

2. Use is approved by the State Department of Health, as enacted under the authority of the Utah Child Care Licensing Act, UCA, Sections 26-39-101 through 26-39-110, and in any of the following categories:

a. Utah Administrative Code, R430-50, Residential Certificate Child Care Standards.

b. Utah Administrative Code, R430-90, Licensed Family Child Care.

3. Compliance with all zoning regulations of the local regulator.

R-4: Residential occupancies shall include buildings arranged for occupancy as Residential Care/Assisted Living Facilities or Residential Treatment/Support Assisted Living Facilities including more than five but not more than 16 occupants, excluding staff.

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3 except as otherwise provided for in this code or shall comply with the International Residential Code in accordance with Section 101.2.

(15) In Section 310.2 the definition for Residential Care/Assisted Living Facilities is deleted and replaced with the following:

See Section 308.1.1.

(16) A new section 421 is added as follows:

Section 421 Group E Child Day Care Centers. Group E child day care centers shall comply with Section 421.

421.1 Location at grade. Group E child day care centers shall be located at the level of exit discharge.

Exception: Child day care spaces for children over the age of 24 months may be located on the second floor of buildings equipped with automatic fire protection throughout and an automatic fire alarm system.

421.2 Egress. All Group E child day care spaces with an occupant load of more than 10 shall have a second means of egress. If the second means of egress is not an exit door leading directly to the exterior, the room shall have an emergency escape and rescue window complying with Section 1026.

(17) In Section 504.2 a new section is added as follows:

504.2.1 Notwithstanding the exceptions to Section 504.2, Group I-2 Assisted Living Facilities shall be allowed to be two stories of Type V-A construction when all of the following apply:

1. All secured units are located at the level of exit discharge in compliance with Section 1008.1.8.3 as amended;

2. The total combined area of both stories shall not exceed the total allowable area for a one-story building; and

3. All other provisions that apply in Section 407 have been provided.[

~~(18) In Section 707.14.1 Exception 4 is deleted.~~]

([~~19~~]18) In Section (F)902, the definition for record drawings is deleted and replaced with the following:

(F)RECORD DRAWINGS. Drawings ("as builts") that document all aspects of a fire protection system as installed.

([~~20~~]19) In Section (F)903.2.3 condition 2 is deleted and replaced with the following:

2. Where a Group F-1 fire area is located more than three stories above the lowest level of fire department vehicle access; or

([~~21~~]20) In Section (F)903.2.6 condition 2 is deleted and replaced with the following:

2. Where a Group M fire area is located more than three stories above the lowest level of fire department vehicle access; or

([~~22~~]21) Section (F)903.2.7 is deleted and replaced with the following:

(F)903.2.7 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

Exceptions:

1. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) constructed in accordance with the International Residential Code For One- and Two-Family Dwellings.

2. Group R-4 fire areas not more than 4,500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives it primary power from the building wiring and a commercial power system.

([~~23~~]22) In Section F903.2.8 condition 2 is deleted and replaced with the following:

2. Where a Group S-1 fire area is located more than three stories above the lowest level of fire department vehicle access; or

([~~24~~]23) Section (F)903.2.9 is deleted and replaced with the following:

(F)903.2.9 Group S-2. An automatic sprinkler system shall be provided throughout buildings classified as parking garages in accordance with Section 406.2 or where located beneath other groups.

Exception 1: Parking garages of less than 5,000 square feet (464 m^2)accessory to Group R-3 occupancies.

Exception 2: Open parking garages not located beneath other groups if one of the following conditions is met:

a. Access is provided for fire fighting operations to within 150 feet (45,720 mm) of all portions of the parking garage as measured from the approved fire department vehicle access; or

b. Class I standpipes are installed throughout the parking garage.

([~~25~~]24) In Section (F)903.2.9.1 the last clause "where the fire area exceeds 5,000 square feet (464 m^2)" is deleted.

([~~26~~]25) Section (F)904.11 and Subsections (F)904.11.3, (F)904.11.3.1, (F)904.11.4 and (F)904.11.4.1 are deleted and replaced with the following:

(F)904.11 Commercial cooking systems. The automatic fire-extinguishing system for commercial cooking systems shall be of a type recognized for protection of commercial cooking equipment and exhaust systems of the type and arrangement protected. Pre-engineered automatic extinguishing systems shall be tested in accordance with UL 300 and listed and labeled for the intended application. The system shall be installed in accordance with this code, its listing and the manufacturer's installation instructions. Automatic fire-extinguishing systems shall be installed in accordance with the referenced standard for wet-chemical extinguishing systems, NFPA 17A.

Exception: Factory-built commercial cooking recirculating systems that are tested in accordance with UL 710B and listed, labeled and installed in accordance with Section 304.1 of the International Mechanical Code.

(Subsections (F)904.11.1 and (F)904.11.2 remain unchanged.

([~~27~~]26) Section (F)907.2.10 is deleted and replaced with the following:

(F)907.2.10 Single- and multiple-station alarms. Listed single- and multiple-station smoke alarms complying with U.L. 217 shall be installed in accordance with the provision of this code and the household fire-warning equipment provision of NFPA 72. Listed single- and multiple-station carbon monoxide detectors shall comply

with U.L. 2034 and shall be installed in accordance with the provisions of this code and NFPA 720.

(F)907.2.10.1 Smoke alarms. Single- or multiple-station smoke alarms shall be installed in the locations described in Sections (F)907.2.10.1.1 through (F)907.2.10.1.3.

(F)907.2.10.1.1 Group R-1. Single- or multiple-station smoke alarms shall be installed in all of the following locations in Group R-1:

1. In sleeping areas.

2. In every room in the path of the means of egress from the sleeping area to the door leading from the sleeping unit.

3. In each story within the sleeping unit, including basements. For sleeping units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

(F)907.2.10.1.2 Groups R-2, R-3, R-4 and I-1. Single- or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and I-1, regardless of occupant load at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.

2. In each room used for sleeping purposes.

3. In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

(F)907.2.10.1.3 Group I-1. Single- or multiple-station smoke alarms shall be installed and maintained in sleeping areas in occupancies in Group I-1.

Exception: Single- or multiple-station smoke alarms shall not be required where the building is equipped throughout with an automatic fire detection system in accordance with Section (F)907.2.6.

(F)907.2.10.2 Carbon monoxide alarms. Carbon monoxide alarms shall be installed on each habitable level of a dwelling unit or sleeping unit in Groups R-2, R-3, R-4 and I-1 equipped with fuel burning appliances.

(F)907.2.10.3. Power source. In new construction, required alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and shall be equipped with a battery backup. Alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

Exception: Alarms are not required to be equipped with battery backup in Group R-1 where they are connected to an emergency electrical system.

(F)907.2.10.4 Interconnection. Where more than one alarm is required to be installed with an individual dwelling unit in Group R-2, R-3, or R-4, or within an individual sleeping unit in Group R-1, the alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed. Approved combination smoke and carbon-monoxide detectors shall be permitted.

(F)907.2.10.5 Acceptance testing. When the installation of the alarm devices is complete, each detector and interconnecting wiring for multiple-station alarm devices shall be tested in accordance with the household fire warning equipment provisions of NFPA 72 and NFPA 720, as applicable.

([~~28~~]27) In Section 1007.3 a new exception 6 is added as follows:

6. Areas of refuge are not required at exit stairways in buildings or facilities equipped throughout with an automatic fire sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.

([~~29~~]28) In Section 1007.4 the word "exception" is changed to "exception 1" and an exception 2 is added as follows:

2. Elevators are not required to be accessed from an area of refuge or horizontal exit in buildings or facilities equipped throughout with an automatic fire sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.

([~~30~~]29) In Section 1008.1.8.3, a new subparagraph (5) is added as follows:

(5) Doors in Group I-1 and I-2 occupancies, where the clinical needs of the patients require specialized security measures for their safety, approved access controlled egress may be installed when all the following are met:

5.1 The controlled egress doors shall unlock upon activation of the automatic fire sprinkler system or automatic fire detection system.

5.2 The facility staff can unlock the controlled egress doors by either sensor or keypad.

5.3 The controlled egress doors shall unlock upon loss of power.

([~~31~~]30) In Section 1009.3, Exception #4 is deleted and replaced with the following:

4. In Group R-3 occupancies, within dwelling units in Group R-2 occupancies, and in Group U occupancies that are accessory to a Group R-3 occupancy, or accessory to individual dwelling units in Group R-2 occupancies, the maximum riser height shall be 8 inches (203 mm) and the minimum tread depth shall be 9 inches (229 mm). The minimum winder tread depth at the walk line shall be 10 inches (254 mm), and the minimum winder tread depth shall be 6 inches (152 mm). A nosing not less than 0.75 inch (19.1 mm) but not more than 1.25 inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 10 inches (254 mm).

([~~32~~]31) In Section 1009.10 Exception 6 is added as follows:

6. In occupancies in Group R-3, as applicable in Section 101.2 and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, handrails shall be provided on at least one side of stairways consisting of four or more risers.

([~~33~~]32) Section 1012.3 is amended to include the following exception at the end of the section:

Exception. Non-circular handrails serving an individual unit in a Group R-1, Group R-2 or Group R-3 occupancy with a perimeter greater than 6 1/4 inches (160 mm) shall provide a graspable finger recess area on both sides of the profile. The finger recess shall begin within a distance of 3/4 inch (19 mm) measured vertically from the tallest portion of the profile and achieve a depth of at least 5/16 inch (8 mm) within 7/8 inch (22 mm) below the widest portion of the profile. This required depth shall continue for at least 3/8 inch (10 mm) to a level that is not less than 1 3/4 inches (45 mm) below the

tallest portion of the profile. The minimum width of the handrail above the recess shall be 1 1/4 inches (32 mm) to a maximum of 2 3/4 inches (70 mm). Edges shall have a minimum radius of 0.01 inch (0.25 mm).

([~~34~~]33) In Section 1013.2 Exception 3 is added as follows:

3. For occupancies in Group R-3 and within individual dwelling units in occupancies in Group R-2, as applicable in Section 101.2, guards shall form a protective barrier not less than 36 inches (914 mm) in height.

([~~35~~]34) In Section 1015.2.2 the following sentence is added at the end:

Additional exits or exit access doorways shall be arranged a reasonable distance apart so that if one becomes blocked, the others will be available.

([~~36~~]35) A new Section 1109.7.1 is added as follows:

1109.7.1 Platform (wheelchair) lifts. All platform (wheelchair) lifts shall be capable of independent operation without a key.

([~~37~~]36) In Section 1208.4 subparagraph 1 is deleted and replaced with the following:

1. The unit shall have a living room of not less than 165 square feet (15.3 m^2) of floor area. An additional 100 square feet (9.3 m^2) of floor area shall be provided for each occupant of such unit in excess of two.

([~~38~~]37) Section 1405.3 is deleted and replaced with the following:

1405.3 Flashing. Flashing shall be installed in such a manner so as to prevent moisture from entering the wall or to redirect it to the exterior. Flashings shall be installed at the perimeters of exterior door and window assemblies, penetrations and terminations of exterior wall assemblies, exterior wall intersections with roofs, chimneys, porches, decks, balconies and similar projections and at built-in gutters and similar locations where moisture could enter the wall. Flashing with projected flanges shall be installed on both sides and the ends of copings, under sills and continuously above projected trim. A flashing shall be installed at the intersection of the foundation to stucco, masonry, siding or brick veneer. The flashing shall be on an approved corrosion-resistant flashing with a 1/2" drip leg extending past exterior side of the foundation.

([~~39~~]38) In Section 1605.2.1, the formula shown as "$f_2 = 0.2$ for other roof configurations" is deleted and replaced with the following:

$f_2 = 0.20 + .025(A-5)$ for other configurations where roof snow load exceeds 30 psf

$f_2 = 0$ for roof snow loads of 30 psf (1.44kN/m^2) or less.

Where A = Elevation above sea level at the location of the structure (ft/1000).

([~~40~~]39) In Section 1605.3.1 and section 1605.3.2, Exception number 2 in each section is deleted and replaced with the following:

2. Flat roof snow loads of 30 pounds per square foot (1.44 kNm^2) or less need not be combined with seismic loads. Where flat roof snow loads exceed 30 pounds per square foot (1.44 kNm^2), the snow loads may be reduced in accordance with the following in load combinations including both snow and seismic loads. W_s as calculated below, shall be combined with seismic loads.

$W_s = (0.20 + 0.025(A-5))P_f$ is greater than or equal to 0.20 P_f

Where

W_s = Weight of snow to be included in seismic calculations;

A = Elevation above sea level at the location of the structure (ft/1000)

P_f = Design roof snow load, psf

For the purpose of this section, snow load shall be assumed uniform on the roof footprint without including the effects of drift or sliding. The Importance Factor, I, used in calculating P_f may be considered 1.0 for use in the formula for W_s.

([~~41~~]40) In Table 1607.1 number 9 is deleted and replaced with the following:

TABLE 1607.1 NUMBER 9

Occupancy or Use	Uniform (psf)	Concentrated (lbs)
9. Decks, except residential	Same as occupancy served[h]	
9.1 Residential decks	60 psf	

([~~42~~]41) Section 1608.1 is deleted and replaced with the following:

1608.1 General. Except as modified in section 1608.1.1, 1608.1.2, and 1608.1.3 design snow loads shall be determined in accordance with Section 7 of ASCE 7, but the design roof load shall not be less than that determined by Section 1607.

([~~43~~]42) Section 1608.1.1 is added as follows:

1608.1.1 Section 7.4.5 of Section 7 of ASCE 7 referenced in Section 1608.1 of the IBC is deleted and replaced with the following:

Section 7.4.5 Ice Dams and Icicles Along Eaves. Where ground snow loads exceed 75 psf, eaves shall be capable of sustaining a uniformly distributed load of $2p_f$ on all overhanging portions. No other loads except dead loads shall be present on the roof when this uniformly distributed load is applied. All building exits under down-slope eaves shall be protected from sliding snow and ice.

([~~44~~]43) Section 1608.1.2 is added as follows:

1608.1.2 Utah Snow Loads. The ground snow load, P_g, to be used in the determination of design snow loads for buildings and other structures shall be determined by using the following formula: $P_g = (P_o^2 + S^2(A-A_o)^2)^{0.5}$ for A greater than A_o, and $P_g = P_o$ for A less than or equal to A_o.

WHERE

P_g = Ground snow load at a given elevation (psf)

P_o = Base ground snow load (psf) from Table No. 1608.1.2(a)

S = Change in ground snow load with elevation (psf/100 ft.) From Table No. 1608.1.2(a)

A = Elevation above sea level at the site (ft./1000)

A_o = Base ground snow elevation from Table 1608.1.2(a) (ft./1000)

The building official may round the roof snow load to the nearest 5 psf. The ground snow load, P_g, may be adjusted by the building official when a licensed engineer or architect submits data substantiating the adjustments. A record of such action together with the substantiating data shall be provided to the division for a permanent record.

The building official may also directly adopt roof snow loads in accordance with Table 1608.1.2(b), provided the site is no more than 100 ft. higher than the listed elevation.

Where the minimum roof live load in accordance with section 1607.11 is greater than the design roof snow load, such roof live load shall be used for design, however, it shall not be reduced to a load lower than the design roof snow load. Drifting need not be considered for roof snow loads less than 20 psf.

([~~45~~]44) Table 1608.1.2(a) and Table 1608.1.2(b) are added as follows:

TABLE NO. 1608.1.2(a)
STATE OF UTAH - REGIONAL SNOW LOAD FACTORS

COUNTY	P_o	S	A_o
Beaver	43	63	6.2
Box Elder	43	63	5.2
Cache	50	63	4.5
Carbon	43	63	5.2
Daggett	43	63	6.5
Davis	43	63	4.5
Duchesne	43	63	6.5
Emery	43	63	6.0
Garfield	43	63	6.0
Grand	36	63	6.5
Iron	43	63	5.8
Juab	43	63	5.2
Kane	36	63	5.7
Millard	43	63	5.3
Morgan	57	63	4.5
Piute	43	63	6.2
Rich	57	63	4.1
Salt Lake	43	63	4.5
San Juan	43	63	6.5
Sanpete	43	63	5.2
Sevier	43	63	6.0
Summit	86	63	5.0
Tooele	43	63	4.5
Uintah	43	63	7.0
Utah	43	63	4.5
Wasatch	86	63	5.0
Washington	29	63	6.0
Wayne	36	63	6.5
Weber	43	63	4.5

TABLE NO. 1608.1.2(b)
RECOMMENDED SNOW LOADS FOR SELECTED UTAH CITIES AND TOWNS(2)

		Roof Snow Load (PSF)	Ground Snow Load (PSF)
Beaver County			
Beaver	5920 ft.	43	62
Box Elder County			
Brigham City	4300 ft.	30	43
Tremonton	4290 ft.	30	43
Cache County			
Logan	4530 ft.	35	50
Smithfield	4595 ft.	35	50
Carbon County			
Price	5550 ft.	30	43
Daggett County			
Manila	5377 ft.	30	43
Davis County			
Bountiful	4300 ft.	30	43
Farmington	4270 ft.	30	43
Layton	4400 ft.	30	43
Fruit Heights	4500 ft.	40	57
Duchesne County			
Duchesne	5510 ft.	30	43
Roosevelt	5104 ft.	30	43
Emery County			
Castledale	5660 ft.	30	43
Green River	4070 ft.	25	36
Garfield County			
Panguitch	6600 ft.	30	43
Grand County			
Moab	3965 ft.	25	36
Iron County			
Cedar City	5831 ft.	30	43
Juab County			
Nephi	5130 ft.	30	43
Kane County			
Kanab	5000 ft.	25	36
Millard County			
Millard	5000 ft.	30	43
Delta	4623 ft.	30	43
Morgan County			
Morgan	5064 ft.	40	57
Piute County			
Piute	5996 ft.	30	43
Rich County			
Woodruff	6315 ft.	40	57
Salt Lake County			
Murray	4325 ft.	30	43
Salt Lake City	4300 ft.	30	43
Sandy	4500 ft.	30	43
West Jordan	4375 ft.	30	43
West Valley	4250 ft.	30	43
San Juan County			
Blanding	6200 ft.	30	43
Monticello	6820 ft.	35	50
Sanpete County			
Fairview	6750 ft.	35	50
Mt. Pleasant	5900 ft.	30	43
Manti	5740 ft.	30	43
Ephraim	5540 ft.	30	43
Gunnison	5145 ft.	30	43
Sevier County			
Salina	5130 ft.	30	43
Richfield	5270 ft.	30	43
Summit County			
Coalville	5600 ft.	60	86
Kamas	6500 ft.	70	100
Park City	6800 ft.	100	142
Park City	8400 ft.	162	231
Summit Park	7200 ft.	90	128
Tooele County			
Tooele	5100 ft.	30	43
Uintah County			
Vernal	5280 ft.	30	43
Utah County			
American Fork	4500 ft.	30	43
Orem	4650 ft.	30	43
Pleasant Grove	5000 ft.	30	43
Provo	5000 ft.	30	43
Spanish Fork	4720 ft.	30	43
Wasatch County			
Heber	5630 ft.	60	86
Washington County			
Central	5209 ft.	25	36
Dameron	4550 ft.	25	36
Leeds	3460 ft.	20	29
Rockville	3700 ft.	25	36
Santa Clara	2850 ft.	15 (1)	21
St. George	2750 ft.	15 (1)	21
Wayne County			
Loa	7080 ft.	30	43
Hanksville	4308 ft.	25	36
Weber County			
North Ogden	4500 ft.	40	57
Ogden	4350 ft.	30	43

NOTES
(1) The IBC requires a minimum live load - See 1607.11.2.
(2) This table is informational only in that actual site elevations may vary. Table is only valid if site elevation is within 100 feet of the listed elevation.

([~~46~~]45) Section 1608.1.3 is added as follows:

1608.1.3 Thermal Factor. The value for the thermal factor, C_t, used in calculation of p_f shall be determined from Table 7.3 in ASCE 7.

Exception: Except for unheated structures, the value of C_t need not exceed 1.0 when ground snow load, P_g is calculated using Section 1608.1.2 as amended.

([~~47~~]46) Section 1608.2 is deleted and replaced with the following:

1608.2 Ground Snow Loads. The ground snow loads to be used in determining the design snow loads for roofs in states other than Utah are given in Figure 1608.2 for the contiguous United

States and Table 1608.2 for Alaska. Site-specific case studies shall be made in areas designated CS in figure 1608.2. Ground snow loads for sites at elevations above the limits indicated in Figure 1608.2 and for all sites within the CS areas shall be approved. Ground snow load determination for such sites shall be based on an extreme value statistical analysis of data available in the vicinity of the site using a value with a 2-percent annual probability of being exceeded (50-year mean recurrence interval). Snow loads are zero for Hawaii, except in mountainous regions as approved by the building official.

([~~48~~]47) In Section 1609.1.1 a new exception number 5 is added as follows:

5. The wind design procedure as found in Section 1616 through 1624 of the 1997 Uniform Building Code may be used as an alternative wind design procedure for:

(a) items 1 through 3 listed in Table 16-H of the 1997 Uniform Building Code provided that the building or component being designed meets the limits for the Simplified Method as defined in ASCE 6.4.1.1 and 6.4.1.2 of ASCE 7; or

(b) items 4 through 7 listed in Table 16-H of the 1997 Uniform Building Code.

The Importance Factor, I, shall be determined in accordance with Table 6-1 of ASCE 7.

([~~49~~]48) Section 1613.7 is added as follows:

1613.7 ASCE 12.7.2 and 12.14.18.1 of Section 12 of ASCE 7 referenced in Section 1613.1, Definition of W, Item 4 is deleted and replaced with the following:

4. Where the flat roof snow load, P_f, exceeds 30 psf, the snow load included in seismic design shall be calculated, in accordance with the following formula: $W_s = (0.20 + 0.025(A-5))P_f$ is greater than or equal to 0.20 P_f

WHERE:

W_s = Weight of snow to be included in seismic calculations;

A = Elevation above sea level at the location of the structure (ft/1000)

P_f = Design roof snow load, psf

For the purposes of this section, snow load shall be assumed uniform on the roof footprint without including the effects of drift or sliding. The Importance Factor, I, used in calculating P_f may be considered 1.0 for use in the formula for W_s.

([~~50~~]49) A new Section 1613.8 is added as follows:

1613.8 ASCE 7, Section 13.5.6.2.2 paragraph (e) is modified to read as follows:

(e) Penetrations shall have a sleeve or adapter through the ceiling tile to allow for free movement of at least 1 inch (25 mm) in all horizontal directions.

Exceptions:

1. Where rigid braces are used to limit lateral deflections.

2. At fire sprinkler heads in frangible surfaces per NFPA 13.

([~~51~~]50) Section 1805.5 is deleted and replaced with the following:

1805.5 Foundation walls. Concrete and masonry foundation walls shall be designed in accordance with Chapter 19 or 21, respectively. Foundation walls that are laterally supported at the top and bottom and within the parameters of Tables 1805.5(1) through 1805.5(5) are permitted to be designed and constructed in accordance with Sections 1805.5.1 through 1805.5.5. Concrete foundation walls may also be constructed in accordance with Section 1805.5.8.

([~~52~~]51) A new section 1805.5.8 is added as follows:

1805.5.8 Empirical foundation design. Group R, Division 3 Occupancies three stories or less in height, and Group U Occupancies, which are constructed in accordance with Section 2308, or with other methods employing repetitive wood-frame construction or repetitive cold-formed steel structural member construction, shall be permitted to have concrete foundations constructed in accordance with Table 1805.5(6).

([~~53~~]52) Table 1805.5(6) is added as follows:

Table 1805.5(6), entitled "Empirical Foundation Walls, dated January 1, 2007, published by the Department of Commerce, Division of Occupational and Professional Licensing is hereby adopted and incorporated by reference. Table 1805.5(6) identifies foundation requirements for empirical walls.

([~~54~~]53) A new section 2306.1.5 is added as follows:

2306.1.5 Load duration factors. The allowable stress increase of 1.15 for snow load, shown in Table 2.3.2, Frequently Used Load Duration Factors, C_d, of the National Design Specifications, shall not be utilized at elevations above 5,000 feet (1524 M).

([~~55~~]54) In Section 2308.6 the following exception is added:

Exception: Where foundation plates or sills are bolted or anchored to the foundation with not less than 1/2 inch (12.7 mm) diameter steel bolts or approved anchors, embedded at least 7 inches (178 mm) into concrete or masonry and spaced not more than 32 inches (816 mm) apart, there shall be a minimum of two bolts or anchor straps per piece located not less than 4 inches (102 mm) from each end of each piece. A properly sized nut and washer shall be tightened on each bolt to the plate.

([~~56~~]55) Section 2506.2.1 is deleted and replaced with the following:

2506.2.1 Other materials. Metal suspension systems for acoustical and lay-in panel ceilings shall conform with ASTM C635 listed in Chapter 35 and Section 13.5.6 of ASCE 7-05, as amended in Section 1613.8, for installation in high seismic areas.

([~~57~~]56) In Section 2902.1, the title for Table 2902.1 is deleted and replaced with the following and footnote e is added as follows: Table 2902.1, Minimum Number of Required Plumbing Facilities[a, e].

FOOTNOTE: e. When provided, in public toilet facilities there shall be an equal number of diaper changing facilities in male toilet rooms and female toilet rooms.

([~~58~~]57) Section 3006.5 Shunt Trip, the following exception is added:

Exception: Hydraulic elevators and roped hydraulic elevators with a rise of 50 feet or less.

([~~59~~]58) A new section 3403.2.4 is added as follows:

3403.2.4 Parapet bracing, wall anchors, and other appendages. Buildings constructed prior to 1975 shall have parapet bracing, wall anchors, and appendages such as cornices, spires, towers, tanks, signs, statuary, etc. evaluated by a licensed engineer when said building is undergoing reroofing, or alteration of or repair to said feature. Such parapet bracing, wall anchors, and appendages shall be evaluated in accordance with 75% of the seismic forces as specified in Section 1613. When allowed by the local building official, alternate methods of equivalent strength as referenced in Subsection R156-56-701(2) will be considered when accompanied by engineer sealed drawings, details and calculations. When found to be deficient because of design or deteriorated condition, the engineer's recommendations to anchor, brace, reinforce, or remove the deficient feature shall be implemented.

EXCEPTIONS:

1. Group R-3 and U occupancies.

2. Unreinforced masonry parapets need not be braced according to the above stated provisions provided that the maximum height of an unreinforced masonry parapet above the level of the diaphragm tension anchors or above the parapet braces shall not exceed one and one-half times the thickness of the parapet wall. The parapet height may be a maximum of two and one-half times its thickness in other than Seismic Design Categories D, E, or F.

([~~60~~]59) Section 3406.4 is deleted and replaced with the following:

3406.4 Change in Occupancy. When a change in occupancy results in a structure being reclassified to a higher Occupancy Category (as defined in Table 1604.5), or when such change of occupancy results in a design occupant load increase of 100% or more, the structure shall conform to the seismic requirements for a new structure.

Exceptions:

1. Specific seismic detailing requirements of this code or ASCE 7 for a new structure shall not be required to be met where it can be shown that the level of performance and seismic safety is equivalent to that of a new structure. Such analysis shall consider the regularity, overstrength, redundancy and ductility of the structure within the context of the existing and retrofit (if any) detailing providing. Alternatively, the building official may allow the structure to be upgraded in accordance with referenced sections as found in Subsection R156-56-701(2).

2. When a change of use results in a structure being reclassified from Occupancy Category I or II to Occupancy Category III and the structure is located in a seismic map area where S_{DS} is less than 0.33, compliance with the seismic requirements of this code and ASCE 7 are not required.

3. Where design occupant load increase is less than 25 occupants and the Occupancy Category does not change.

([~~61~~]60) The exception in 3409.1 is deleted and replaced with the following:

Exception: Type B dwelling or sleeping units required by section 1107 are not required to be provided in existing buildings and facilities, except when an existing occupancy is changed to R-2.

([~~62~~]61) In Section 3409.4, number 7 is added as follows:

7. When a change of occupancy in a building or portion of a building results in a Group R-2 occupancy as determined in section 1107.6.2, not less than 20 percent of the dwelling or sleeping units shall be Type B dwelling or sleeping units. These dwelling or sleeping units may be located on any floor of the building provided with an accessible route. Two percent, but not less than one, of the dwelling or sleeping units shall be Type A dwelling units.

([~~63~~]62) The following referenced standard is added under NFPA in chapter 35:

TABLE

Number	Title	Referenced in code Section number
720-05	Recommended Practice for the Installation of Household Carbon Monoxide (CO) Warning Equipment	907.2.10, 907.2.10.5

KEY: contractors, building codes, building inspections, licensing

Date of Enactment or Last Substantive Amendment: [~~July 1,~~]2008

Notice of Continuation: March 29, 2007

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-56-1; 58-56-4(2); 58-56-6(2)(a); 58-56-18; 58-56-19

Commerce, Occupational and Professional Licensing

R156-59

Professional Employer Organization Registration Act Rule

NOTICE OF PROPOSED RULE

(Repeal)
DAR FILE NO.: 32025
FILED: 10/13/2008, 08:09

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the 2008 General Session, the Legislature repealed the Professional Employer Registration Act, Title 58, Chapter 59, in H.B. 159. H.B. 159 also enacted the Professional Employer Organization Licensing Act and moved the duties of regulation of this profession to the Utah Insurance Department. The purpose of this filing is now to repeal the Professional Employer Organization Registration Act Rule which the Division no longer has statutory authority to use. (DAR NOTE: H.B. 159 (2008) is found at Chapter 318, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: The rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-59-101 and Subsections 58-1-106(1)(a), 58-59-302(2)(e)(i), and 58-59-302.5(1)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There should be no cost impact to the state budget by the elimination of this rule beyond those considered in the passage of H.B. 159.

❖ LOCAL GOVERNMENTS: The repeal of this rule does not apply to local governments; therefore no costs or savings are anticipated.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There should be no cost or saving impact to either small businesses or other persons by the elimination of this rule beyond those considered in the passage of H.B. 159.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There should be no cost or saving impact to affected persons by the elimination of this rule beyond those considered in the passage of H.B. 159.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated with this rule filing beyond those addressed with the passage of H.B. 159 in the 2008 Legislative General Session, which moved the regulation of professional employer organizations to the Department of Insurance. 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:
Clyde Ormond at the above address, by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at cormond@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: F. David Stanley, Director

R156. Commerce, Occupational and Professional Licensing.
[**~~R156-59. Professional Employer Organization Registration Act Rule.~~**

~~R156-59-101. Title.~~

~~This rule shall be known as the "Professional Employer Organization Registration Act Rule."~~

~~R156-59-103. Authority.~~

~~This rule is adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 59.~~

~~R156-59-104. Organization - Relationship to Rule R156-1.~~

~~The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.~~

~~R156-59-301. Qualifications for Registration -- Designated Assurance Organization.~~

~~(1) The qualifications certified by an assurance organization are as set forth in Subsections 58-59-302.5(2) and (3). No additional qualifications are established by rule.~~

~~(2) The Employer Services Assurance Corporation (ESAC) meets the requirements set forth in Subsection 58-59-302.5.~~

~~KEY: professional employer organization, registration~~
~~Date of Enactment of Last Substantive Amendment: November 8, 2007~~
~~Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a), 58-59-101, 58-59-302(2)(e)(i), 58-59-302.5(1)~~]

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Commerce, Occupational and Professional Licensing
R156-78B-14
Determination - Supplemental Opinion - Certificate of Compliance

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32043
FILED: 10/14/2008, 11:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division is proposing an amendment to add additional authorized persons who can sign a prelitigation certificate of compliance or other closing documents.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-78B-14(3), the term "or designee" is being added to the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 78B-3-416(1)(b)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division will incur minimal costs of approximately $50 to reprint the rule once the proposed amendment is made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ LOCAL GOVERNMENTS: The proposed amendment does not apply to local governments; therefore no costs or savings are anticipated.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The proposed amendment is only adding additional authorized persons employed in the Division who can sign a prelitigation certificate of compliance or other closing documents. No costs or savings are anticipated for either small businesses or other persons since this amendment is only updating a Division policy regarding signature authority.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment is only adding additional authorized persons employed in the Division who can sign a prelitigation certificate of compliance or other closing documents. No costs or savings are anticipated for affected persons since this amendment is only updating a Division policy regarding signature authority.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule change permits the Division Director to designate another Division

employee to act on the Director's behalf where necessary to issue a certificate of compliance. No fiscal impact to businesses is anticipated from such an amendment. 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:
W. Ray Walker at the above address, by phone at 801-530-6256, by FAX at 801-530-6511, or by Internet E-mail at raywalker@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: F. David Stanley, Director

R156. Commerce, Occupational and Professional Licensing.
R156-78B. Prelitigation Panel Review Rule.
R156-78B-14. Determination - Supplemental Opinion - Certificate of Compliance.

(1) Panel Determination.

As soon as is reasonably practicable following the conclusion of a hearing or submission of a case to the panel in accordance with Section R156-78B-13, and, if applicable, submission of briefs by the parties, the panel shall file with the division a determination whether any claim against any respondent is meritorious. If applicable, the determination shall also reflect the panel's evaluation of the damages sustained by the petitioner.

(2) Supplementary Memorandum Opinion.

Within 30 days after filing its determination, the panel shall file a memorandum opinion explaining the panel's determination. The chairman of the panel shall be responsible for the preparation of the memorandum opinion of the panel, but may delegate the initial preparation of the opinion to another member of the panel.

(3) Certificate of Compliance.

Within 15 days after receiving the panel's memorandum opinion, the [~~d~~]Director or designee shall issue a certificate of compliance which recites that petitioner has fully complied with the requirements of Section 78B-3-416. With respect to the tolling of the statute of limitations referenced in Section 78B-3-416(3), the 60 day time period mentioned therein shall begin to run as of the date the Director causes the certificate of compliance to be served, the three day mailing period set forth in Section R156-78B-4(3) to be applied.

KEY: medical malpractice, prelitigation
Date of Enactment or Last Substantive Amendment: [~~May 16, 1997~~]2008
Notice of Continuation: April 9, 2007
Authorizing, and Implemented or Interpreted Law: 78B-3-416(1)(b)

Commerce, Real Estate
R162-103
Appraisal Education Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31998
FILED: 10/02/2008, 14:45

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The appraisal industry has asked the Division to permit appraisers to track their completed continuing education course credits online and to improve the quality of education. This rule requires continuing education courses and instructors to be certified by the Division and establishes standards for certification. The rule also establishes a requirement that continuing education providers record completed courses within the Division's database. Once education courses are "banked", the Division will be able to meet another industry request to renew licenses online.

SUMMARY OF THE RULE OR CHANGE: This rule requires continuing education courses and instructors to be certified and establishes standards for certification. The rule also establishes a requirement that continuing education providers record completed courses within the Division's database. Once education courses are "banked", the Division will be able to meet another industry request to renew licenses online. The rule also makes other technical changes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 61-2b-1(b) and (3)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: At this time the rule will cause no additional costs or savings to the state budget because 1) there will be no charge for the certification of continuing education courses, and 2) the Division can absorb the workload within existing resources. The rule allows the Division to charge a fee for certification, as currently exists in the Division's other two regulated industries. But the Division does not plan to require a fee at this time. The small size of Utah's appraiser population makes it more difficult for education providers to develop courses. The Division does not want a fee to make it more difficult for a course provider to develop a course.

❖ LOCAL GOVERNMENTS: Local governments will experience no additional costs or savings since there will be no charge for certification of continuing education courses at this time.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small businesses will experience no additional costs or savings since there will be no charge for certification of continuing education courses at this time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A person who seeks to become a certified instructor or to certify a course may be required to submit additional information than is now required. If additional employee time is required to compile the information, a person may incur additional compliance costs.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mark Steinagel at the above address, by phone at 801-530-6744, by FAX at 801-530-6749, or by Internet E-mail at msteinagel@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: Mark Steinagel, Director

R162. Commerce, Real Estate.
R162-103. Appraisal Education Requirements.
R162-103-1. Definitions.

103.1.1 For the purposes of this rule, "school" includes:

(a) An accredited college, university, junior college or community college;

(b) Any state or federal agency or commission;

(c) A nationally [~~or state~~]recognized real estate appraisal or real estate related organization, society, institute, or association;

(d) Any [~~other~~]school or organization [~~as~~]approved by the Board.

103.1.2 "School director" means an authorized individual in charge of the educational program at a school.

R162-103-2. School Certification.

103.2.1 Each school requesting certification shall make application for approval on the form prescribed by the Division, and shall submit the applicable fees. The application shall include, and the Board may consider, the following information in determining the school's eligibility for certification:

103.2.1.1 Name, phone number, and address of the school, school director and all owners of the school.

103.2.1.2 Attestation to upstanding moral character by individuals who are school directors or owners of the school, and whether any individual:

(a) has had [~~a~~]an appraiser license or certification[~~to practice in the appraisal profession~~], or any other [~~profession or occupation~~]professional license or certification, denied, restricted, suspended, or revoked.

(b) has been permitted to resign or surrender an appraiser license or certification, or any other professional license or certification.

(c) [~~or~~]has ever allowed an appraiser license or certification or any other professional license or certification to expire while the individual was under investigation, or while action was pending against the individual by an appraiser licensing or any other agency.

[~~(c)~~](d) has any action now pending by any appraiser licensing or other agency.

[~~(d)~~](e) is currently under investigation for, or charged with, or has ever pled guilty or no contest to, or been convicted of, a misdemeanor or felony, excluding minor traffic offenses.

[~~(e)~~](f) has ever been placed on probation in connection with any criminal offense or a licensing action.

103.2.1.3 A description of the type of school and a description of the school's physical facilities. All courses shall be taught in an appropriate classroom facility and not in any private residence, except for courses approved for specific home-study purposes;

103.2.1.4 A copy of the statement which shall be provided for each student outlining the days, times and locations of classes; the number of quizzes and examinations; the grading system, including methods of testing and standards of grading; the requirements for attendance; and the school's refund policy.

103.2.2 A public school may schedule its courses within the criteria of its regular schedule, for example, quarter, semester, or similar schedule. A quarter hour of college credit is the equivalent of 10 classroom hours, and a semester hour of college credit is the equivalent of 15 classroom hours.

103.2.3 Upon approval by the Board, a school [~~will~~]shall be issued certification. [~~Until January 1, 2005, all certifications expire January 1. Beginning on January 1, 2005, a~~]A school certification [~~will~~]shall be issued for a two-year term and [~~will~~]expire twenty-four months from the date of issuance. School certifications may be renewed by submitting a properly completed application for renewal prior to the expiration date of the school's current certification, using the form required by the Division, and paying the applicable fee. [~~Until January 1, 2005, renewed school certifications shall be issued for a term of one calendar year. Beginning on January 1, 2005, the~~]The term of a renewed school certification shall be twenty-four months. Conditions of certification include the following:

(a) A school shall teach the approved course of study as outlined in the State Approved Course Outline;

(b) A school shall require each student to attend the required number of hours and pass a final examination;

(c) A school shall maintain a record of each student's attendance for a minimum of five years after his enrollment;

(d) A school shall not make any misrepresentation in its advertising about any course of instruction, and shall be able to provide substantiation of any [~~claims~~]claim made. All advertising and public notices shall be free of statements or implications which do not enhance the dignity and integrity of the appraisal profession. A school shall refrain from disparaging a competitor's services or methods of operation;

(e) Within 15 calendar days after the occurrence of any material change in the school which could affect its approval, including the events listed in R162-103.2.1.2, the school shall give the Division written notice of that change; and

(f) A school [~~will~~]shall not attempt by any means to obtain or use the questions on the state licensure or certification exam unless those questions have been dropped from the current exam bank.

(g) A school shall provide to all students at the time of registration a copy of the qualifying questionnaire the student will be required by the Division to answer as part of the prelicensing or precertification examination.

R162-103-3. Course Certification.

103.3.1 Each school requesting approval of a course designed to meet the education requirements of licensure or certification shall make application for approval on a form prescribed by the Division and shall pay the applicable fee. The application shall include, and the Board may consider, the following information in determining eligibility for approval:

(a) A course outline including a description of the course, the length of time to be spent on each subject area broken into segments of no more than 30 minutes each, and three to five learning objectives for every three hours;

(b) Indication of any method of instruction other than lecture method including: a slide presentation, CD, DVD, webinar, satellite broadcast, cassette, video tape, movie, [~~home study,~~]or other.

(c) A copy of the three final examinations of the course and the answer keys which are used to determine if the student has passed the course;

(d) An explanation of what the school procedure is for maintaining the security of the final exams and the answer keys;

(e) A list of the titles, authors and publishers of all required textbooks;

(f) A list of the instructors and evidence of their certification by the Division, and a list of any guest lecturers to be used and evidence of their qualifications as an instructor for a specific course;[~~ and~~]

(g) Days, times, and location of classes[~~,~~]; and

(h) A commitment to give no more than eight credit hours per day to any student.

103.3.2 Upon approval by the Board, a course [~~will~~]shall be issued certification. [~~Until January 1, 2005, all certifications expire January 1. Beginning January 1, 2005, all~~]All original course certifications and all renewed course certifications shall be issued with an expiration date of twenty-four months after issuance.

103.3.3 Each course of study [~~will~~]shall meet the minimum standards set forth in the State Approved Course Outline provided for each approved course and be approved by the AQB Course Approval Program. The school may alter the sequence of presentation of the required topics.[~~ Specific nonappraisal courses being used to satisfy the educational requirements shall have prior approval as to their applicability.~~]

103.3.4 All courses of study [~~will~~]shall meet the minimum hourly requirement of that course. A credit hour is defined as 50 minutes of supervised contact by a certified instructor within a 60-minute time period. A 10-minute break [~~will~~]shall be given for each 50 minutes in class. Registration or certification credit [~~will~~]shall be limited to a maximum of eight credit hours per day. The limitation applies only to the credit a student may receive and is not intended to limit the number of classroom hours offered.

103.3.5 A public school or institution may use any faculty member to teach an approved course provided the individual demonstrates to the satisfaction of the Division and the Board academic training or appraisal experience qualifying him to teach the course.

103.3.6 Distance education is defined as any educational process based on the geographical separation of instructor and student (e.g., CD ROM, On-line learning, correspondence courses, video conferencing, etc.). Distance education courses must provide interaction between the learner and instructor and must include testing. A distance education course may be acceptable to meet the classroom hour requirement or its equivalent providing each course meets the following conditions:

[~~103.3.6.1~~](a) The course:

[~~(a)~~](i)(A) has been presented by an accredited college or university which offers distance education programs in other disciplines and where accreditation has been made by the Commission on Colleges or a regional accreditation association; or

[~~(b)~~](B) has received approval [~~for college credit~~]by the International Distance Education Certification Center, also known as IDECC; [~~or~~]and

[~~(c)~~](ii) has been approved under the AQB Course Approval Program.

[~~(a)~~](b) The learner must successfully complete a written examination personally proctored by an official approved by the [~~college or university or by the~~]presenting entity; and

[~~(b)~~](c) The course must meet the requirements established by the AQB and be equivalent to the minimum of 15 classroom hours.

103.3.7 A maximum of 10% of the required class time may be spent in testing, including review test and final examination. A student cannot challenge a course or any part of a course of study by taking an exam in lieu of attendance.

103.3.7.1 If a student fails a school final examination, he [~~will~~]shall not be allowed to retest for a minimum of three days. The student [~~will~~]shall not be allowed to retake the same final exam, but [~~will~~]shall be given a new exam with different questions.

103.3.7.2 If the student fails the final exam a second time, [~~he will~~]the student shall not be allowed to retest for a minimum of two weeks at which time [~~he will~~]the student shall be given an entirely new exam with completely new questions. If the student fails this third exam, [~~he will~~]the student shall fail the course.

103.3.8 All texts, workbooks, supplement pamphlets and any other materials shall be appropriate and current in their application to the required course outline.

103.3.9 Within 15 calendar days after the occurrence of any material change in a course which could affect approval, the school shall give the Division written notice of the change.

R162-103-4. Education Credit for Noncertified Courses.

103.4.1 Education credit [~~will~~]shall be granted towards licensure or certification for an appraisal education course which has been taken and which has not been previously certified in Utah for prelicensing education credit, and has been provided by a school which meets the criteria as outlined in 103.1.

103.4.1.1 The course content shall have met the minimum standards set forth in the Utah State Approved Course Outline and be approved by the AQB Course Approval Program.

103.4.1.2 A course must be at least 15 hours in duration, including the examination. An hour is defined as 50 minutes of supervised contact by a certified instructor within a 60-minute time period.

103.4.1.3 A final examination [~~will~~]shall be administered at the end of each course pertinent to that education offering.

103.4.2 Credit [~~will~~]shall not be granted for a course taken in which the applicant obtained credit from the course provider by challenge examination without having attended the course.

103.4.3 Credit [~~will~~]shall not be given for duplicate or highly comparable classes. Each course must represent a progression in which the appraiser's knowledge is increased.

103.4.4 [~~There~~]Except as provided in R162-105.3.3 is no time limit regarding when education credit must have been obtained.

103.4.5 Hourly credit for a course taken from a professional appraisal organization [~~will~~]shall be granted based upon the Division approved list which verifies hours for these courses.

103.4.6 Credit [~~will~~]shall only be granted for a course that has been successfully completed. Successful completion of a course means that the applicant has attended a minimum of 90% of the scheduled class hours, has completed all required exercises and assignments, and has achieved a passing score on a course final examination. The final examination shall not be an open book examination.

103.4.7 Submission for Education Approval.

103.4.7.1 Courses that have not been previously certified for prelicensing credit [~~will~~]shall be reviewed by the Education Review Committee. It is the responsibility of the applicant to establish that a particular education offering [~~will~~]shall qualify to meet the education requirement for licensing or certification.

103.4.7.2 The applicant shall submit on a form provided by the Division a list of the courses that documents the course title, the name of the sponsoring organization, the number of classroom hours, and the date the course was completed.

103.4.7.3 The applicant [~~will~~]shall attest on a notarized affidavit that the courses have been completed as documented.

103.4.7.4 The applicant [~~will~~]shall support the claim for education credit if requested by the Division by providing proof of completion of the courses in the form of certificates, transcripts, report cards, letters of verification, or similar proof.[

~~103.4.7.5 Applicants having appraisal education in categories other than those in the State Approved Course Outline may petition the Board on an individual basis for evaluation and approval of their education as being substantially equivalent to that required for licensing or certification.~~]

R162-103-5. Instructor Application for Certification.

103.5.1 Each instructor requesting approval to be certified as an instructor to teach the education requirements of appraisal licensure or certification shall make application for approval on a form prescribed by the Division and shall submit the applicable fees. The application shall include, and the Board may consider, the following information in determining the instructor's eligibility for approval:

103.5.1.1 Attestation to upstanding moral character, including whether the individual:

(a) has had [~~a~~]an appraiser license or certification[~~to practice in the appraisal profession~~], or any other [~~profession or occupation~~]professional license or certification, denied, restricted, suspended, or revoked.

(b) has been permitted to resign or surrender an appraiser license or certification, or any other professional license or certification.

(c) [~~or~~]has ever allowed an appraiser license or certification or any other professional license or certification to expire while the individual was under investigation, or while action was pending against the individual by an appraiser licensing or any other agency.

[~~(c)~~](d) has any action now pending by any appraiser licensing or other agency.

[~~(d)~~](e) is currently under investigation for, or charged with, or has ever pled guilty or no contest to, or been convicted of, a misdemeanor or felony, excluding minor traffic offenses.

[~~(e)~~](f) has ever been placed on probation in connection with any criminal offense or a licensing action.

103.5.2 The instructor [~~will~~]shall demonstrate evidence of knowledge of the subject matter by the following:

103.5.2.1 A minimum of five years active experience in appraising, or

103.5.2.2 Evidence of having completed college or other appropriate courses specific to the topic he proposes to teach, or

103.5.2.3 Evidence of other qualifications of experience, education, or credentials which are acceptable to the Board; and

103.5.2.4 Evidence of having passed an examination designed to test knowledge of the subject matter he proposes to teach.

103.5.3 An applicant to teach the course on USPAP shall conform to all of the above criteria and in addition shall have been certified by the [~~Appraisal Qualifications Board (AQB) of the Appraisal Foundation~~]AQB as an AQB Certified USPAP instructor.

103.5.4 Upon approval by the Board, an applicant [~~will~~]shall be issued certification. [~~Until January 1, 2005, all certifications expire January 1 of each even numbered year. Beginning January 1, 2005, instructor~~]Instructor certifications [~~will~~]shall be issued for a term that expires twenty-four months from the date of issuance. Conditions of renewal of certification include providing proof of the following:

103.5.4.1 Must have taught at least 20 hours of in-class instruction in a certified course during the preceding two years; and

103.5.4.2 Must have attended a real estate instructor development workshop sponsored or approved by the Division during the preceding two years.

103.5.4.3 Instructor certifications may be renewed by submitting a properly completed application for renewal prior to the expiration date of the instructor's current certification, using the form required by the Division. Renewed instructor certifications [~~will~~]shall be issued for a term of twenty-four months. If the instructor does not submit a properly completed renewal form, renewal fee, and any required documentation prior to the expiration date of the current certification, the certification shall expire. When a certification expires, the certification may be reinstated for a period of thirty days after the expiration date upon payment of a late fee in addition to completing the requirements for a timely renewal. After this thirty day period, and until three months after the expiration date, an instructor certification may be reinstated upon payment of a non-refundable late fee and submission of proof of completion of six classroom hours of education related to real estate appraisal or teaching techniques in addition to completing the requirements for a timely renewal. Following the three month period, an instructor shall be required to apply as an original applicant in order to obtain a new certification.

103.5.5 Within 15 calendar days after the occurrence of any of the events listed in Section 103.5.1, an applicant or instructor shall give written notice to the Division of that event.

R162-103-7. Continuing Education Course Certification.

103.7 As a condition of renewal, all appraisers [~~will~~]shall complete the equivalent of 28 classroom hours of appraisal education during the two-year term preceding renewal.[~~The continuing education requirement is for the purpose of maintaining and increasing the appraiser's skill, knowledge and competency in real estate appraising.~~]

103.7.1 [~~Continuing education credit may be granted for courses that meet the following criteria~~]Except as provided in R162-103.7.6, continuing education credit shall be given to students only for courses that are certified by the Division at the time the courses are taught. Course sponsors shall apply for course certification by submitting all forms and fees required by the Division not less than 30 days prior to the course being taught. Applications shall include the following information which shall be used in determining approval:

(a) [~~the course has been obtained from any of the course providers designated in 103.1.~~]name and contact information of the course sponsor and the entity through which the course will be provided;

(b) [~~the course covers appraisal topics as suggested by the AQB.~~]a description of the physical facility where the course will be taught;

(c) [~~the length of the educational offering is at least two classroom hours, each classroom hour is defined as 50 minutes out of each 60-minute segment, and the continuing education credit is limited to eight hours per day.~~]the proposed number of credit hours for the course;

(d)[~~the course meets~~](i) identification of whether the method of instruction will be traditional education or distance education;

(ii) if distance education, the course shall meet the requirements for distance learning [~~as~~]outlined in R162-103.3.6[~~.~~], except that:

(A) testing for continuing education course competency need not be a proctored examination if the course mechanisms require a student to demonstrate mastery and fluency;

(B) the course may be approved by the Division, rather than by the AQB Course Approval program; and

(C) a course need not be a minimum of 15 classroom hours;

(e) the title of the course;

(f) a statement defining how the course will meet the objectives of continuing education by increasing the licensee's knowledge, professionalism, and ability to protect and serve the public;

(g) a course outline including, for each segment of no more than 15 minutes, a description of the subject matter;

(h) a minimum of one learning objective for every hour of class time;

(i) the name and certification number of each certified instructor who will teach the course;

(j) copies of all materials that will be distributed to the participants;

(k) the procedure for pre-registration, the tuition or registration fee and a copy of the cancellation and refund policy;

(l) except for courses approved for distance education, the procedure for taking and maintaining control of attendance during class time, which procedure shall be more extensive than having the student sign a class roll;

(m) a sample of the completion certificate which shall bear the following information:

(i) space for the licensee's name, type of license and license number, and date of course;

(ii) The name of the course provider, course title, hours of credit, certification number, and certification expiration date; and

(iii) Space for signature of the course sponsor and a space for the licensee's signature;

(n)(i) a signed statement agreeing to upload the following, within 10 days after the end of a course offering, to the database specified by the Division:

(A) course name;

(B) course certificate number assigned by the Division;

(C) date the course was taught;

(D) number of credit hours; and

(E) names and license numbers of all students receiving continuing education credit;

(o) a signed statement agreeing not to market personal sales products;

(p) a commitment to give no more than eight credit hours per day to any student; and

(q) other information the Division may require.

103.7.2 Real estate appraisal related field trips are acceptable for continuing education credit; however, transit time to or from the field trip location [~~should~~]may not be included when awarding credit if instruction does not occur.

103.7.3 Prelicensing education credit awarded to individuals seeking a different classification than that held, can also be used to satisfy a continuing education requirement.

103.7.4 Alternative Continuing Education Credit - continuing education credit may be granted for participation, other than as a student, in an appraisal [~~educational processes and programs~~]practicum course.

103.7.4.1 Credit may be granted on a case by case basis for teaching, program development, authorship of textbooks, or similar activities which are determined by the Board to be equivalent to obtaining continuing education.

103.7.4.2 The Education Review Committee [~~will~~]shall review claims of equivalent education and also alternative continuing education proposed to be used for continuing education purposes.

103.7.4.3 The Board may award continuing education credit to members of the Education Review Committee, the Experience Review Committee, and the Technical Advisory Panel.

103.7.4.4 The Division may award continuing education credit to Board Members for participation on the Board in accordance with AQB standards.

103.7.5 Courses that are approved for continuing education credit for real estate sales agents, real estate brokers, or mortgage officers licensed by the Division are not acceptable for appraiser continuing education credit unless the courses have been previously approved by the [~~AQB~~]Division for appraiser continuing education.

103.7.6(a) The Division may grant continuing education credit for non-certified courses submitted by a renewal applicant in the form required by the Division if:

(i) the course was not required by these rules to be certified and the Division determines that the course meets the continuing education objectives listed in this rule; or

(ii) the course was taught outside the state of Utah.

(b) A licensee shall retain original course completion certificates for three years following renewal and produce those certificates when audited by the Division.

103.7.7 The Division may only certify course topics approved as continuing education topics by the AQB.

103.7.8(a) A course sponsor is not responsible for uploading information for students who fail to provide an accurate name or license number registered with the Division.

(b) Continuing education credit shall not be given to any student who fails to provide to a course sponsor an accurate name or license number registered with the Division within 7 days of attending the course.

103.7.9 A course sponsor shall upon completion of a course offering, provide a certificate of completion, in the form required by the Division, to those students who attend a minimum of 90% of the required class time.

103.7.10 Except for distance education courses, a course may only be approved if taught in an appropriate classroom facility and not in a private residence.

103.7.11(a) For purposes of this rule, a credit hour is defined as 50 minutes within a 60 minute segment. A course may not be approved for fewer than two credit hours.

R162-103-9. Continuing Education Instructor Certification.

103.9.1(a) Except for courses exempted from certification under R162-103.7.6, continuing education credit shall be given to students only for courses that are taught by an instructor who is certified by the Division at the time the courses are taught.

(b) Applicants for instructor certification shall submit all forms and fees required by the Division not less than 30 days prior to the course being taught.

(c) Applications shall include at a minimum the following information:

(i) name and contact information of the applicant;

(ii) Evidence of graduation from high school or its equivalent;

(iii) evidence of any combination of at least three years of full time experience or college-level education related to the course subject;

(iv) evidence of at least twelve months of full time teaching experience or an equivalent number of months of part time teaching experience, or attendance at the Division's Instructor Development Workshop;

(v) a signed statement agreeing to allow the instructor's courses to be randomly audited on an unannounced basis by the Division or its representative;

(vi) a signed statement agreeing not to market personal sales products; and

(vii) any other information the Division may require.

103.9.2 The Division shall certify instructors based on the applicant's honesty, integrity, truthfulness, reputation, and competency.

103.9.3 Instructor certifications are valid for two years. A certification may be renewed by submitting all forms and fees required by the Division prior to the expiration date of the current certification.

103.9.4 Certifications not properly renewed shall expire on the expiration date.

103.9.4.1 A certification may be reinstated for a period of thirty days after expiration by complying with all requirements for a timely renewal and paying a non-refundable late fee.

103.9.4.2 A certification may be reinstated after thirty days and within six months after expiration by complying with all requirements for a timely renewal and paying a nonrefundable reinstatement fee.

103.9.4.3 A certification that has been expired for more than six months may not be reinstated and an applicant must apply for a new certification following the same procedure as an original certification.

103.9.5 To renew an instructor certification, an instructor must have taught a minimum of 12 continuing education credit hours during the previous renewal period.

103.9.5.1 If the instructor has not taught a minimum of 12 hours during the previous renewal period, written explanation outlining the reason for not meeting the requirement and satisfactory documentation of the applicant's present level of expertise shall be provided to the Division.

R162-103-10. Marketing of Continuing Education Courses.

103.10.1 A course sponsor may not advertise or market a continuing education course where Division continuing education course credit will be offered or provided to a licensed attendee unless the course:

(a) is approved and has been issued a current continuing education course certification number by the Division; and

(b) is advertised with the continuing education course certification number issued by the Division displayed in all advertising materials.

103.10.2 A course sponsor may not advertise, market, or promote a continuing education course with language which indicates Division continuing education course approval is "pending" or otherwise forthcoming.

KEY: real estate appraisals, education
Date of Enactment or Last Substantive Amendment: [~~November 23, 2005~~]2008
Notice of Continuation: April 18, 2007
Authorizing, and Implemented or Interpreted Law: 61-2b-8

♦ ♦

Commerce, Securities
R164-15-2
Notice Filings for Rule 506 Offerings

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32039
FILED: 10/13/2008, 16:55

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is being amended in recognition of the amendment of Regulation D of the Securities Act of 1993 by the Securities and Exchange Commission (SEC) to authorize the filing of Form D in electronic format with the SEC through the Electronic Data Gathering, Analysis, and Retrieval System (EDGAR) in accordance with EDGAR rules set forth in Regulation S-T as described in Securities and Exchange Commission Securities Act Release No. 8891.

SUMMARY OF THE RULE OR CHANGE: The amended rule authorizes an issuer of securities under Regulation D, Rule 506, to file either: 1) Temporary Form D while that form remains in effect through March 15, 2008; or 2) a copy of the notice of sales on Form D filed electronically with the SEC until an electronic filing system acceptable to the Division is implemented that permits the electronic filing of Form D with the Division or its designee. Such a system is currently being developed by the North American Securities Administrator's Association (NASAA). The amendment also clarifies filing requirements related to: 1) manual signatures; 2) consent to service forms; 3) date-of-sale disclosures; and 4) the filing of amendments.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-1-15.5 and Regulation D of the Securities Act of 1933 (17 CFR 501-508)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No change--Processing costs and filing fees will remain identical under the Amendment.

❖ LOCAL GOVERNMENTS: No change--Local government does not receive or review these types of filings.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No change--The amendment provides small businesses with an additional filing option. It does not materially increase compliance costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No change--Time and cost commitments for filers remain materially the same under the amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As indicated in the rule summary, no fiscal impact to businesses is anticipated from this rule filing which provides an additional method for the filing of certain documents. Francine Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Benjamin N Johnson at the above address, by phone at 801-530-6134, by FAX at 801-530-6980, or by Internet E-mail at bnjohnson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: Keith Woodwell, Director

R164. Commerce, Securities.
R164-15. Federal Covered Securities.
R164-15-2. Notice Filings for Rule 506 Offerings.

(A) Authority and purpose.

(1) The Division enacts this rule under authority granted by Sections 61-1-15.5 and 61-1-24.

(2) The rule requires a notice filing within 15 days after the first sale in this state of securities described in Subsection 61-1-15.5(2) and sets forth the filing procedure.

(3) This rule has been amended in recognition of the amendment of Regulation D by the Securities and Exchange Commission (SEC) to authorize the filing of Form D in electronic format with the SEC through the Electronic Data Gathering, Analysis, and Retrieval System (EDGAR) in accordance with EDGAR rules set forth in Regulation S-T (17 CFR Part 232) as described in Securities and Exchange Commission Securities Act Release No. 8891.

(4) This rule authorizes an issuer to file Temporary Form D while that form remains in effect or a copy of the notice of sales on Form D filed electronically with the SEC until an electronic filing system acceptable to the Division is implemented that permits the electronic filing of Form D with the Division or its designee.

(B) Definitions

(1) "Division" means the Division of Securities, Utah Department of Commerce.

(2) "NASAA" means the North American Securities Administrators Association, Inc.[

~~(3) "SEC Form D" means the document, as adopted by the United States Securities and Exchange Commission and in effect on September 1, 1996, as may be amended by the SEC from time to time, entitled "Form D; Notice of Sale of Securities pursuant to Regulation D, Section 4(6), and/or Uniform Limited Offering Exemption", including Part E and the Appendix.~~]

(C) Filing requirements

(1) An issuer offering a security that is a covered security under section 18(b)(4)(D) of the Securities Act of 1933 must [~~submit to~~]file with the Division or its designee, no later than 15 days after the first sale of such federal covered security in this state, [~~the following:~~]an initial notice and a filing fee as follows:

(1)(a) [~~A manually signed notice on SEC Form D;~~]The issuer shall file an initial notice on SEC Form D. For Purposes of Subsection 61-1-15.5(2), the initial notice on SEC Form D shall consist of either,

(1)(a)(i) the Temporary Form D (17 CFR 239.500T), including Part E and the Appendix, as adopted by the SEC while that form remains in effect from September 15, 2008 through March 15, 2009; or

(1)(a)(ii) a copy of the notice of sales on Form D filed in electronic format with the SEC through the Electronic Data Gathering, Analysis, and Retrieval System (EDGAR) in accordance with EDGAR rules set forth in Regulation S-T (17 CFR Part 232) and in effect on September 15, 2008.

(1)(b) [~~A completed manually signed NASAA Form U-2 - Uniform Consent to Service of Process; and~~]Regardless of whether the issuer files a notice of sales on Temporary Form D or a copy of the notice of sales on Form D filed in electronic format with the SEC, such form shall be manually signed by a person duly authorized by the issuer;

(1)(c) [~~A fee as specified in the Division's fee schedule.~~]If the issuer files a notice on Temporary Form D, it shall also furnish a completed manually signed NASAA Form U-2 - Uniform Consent to Service of Process;

(1)(d) The issuer shall include with the initial notice a statement indicating:

(1)(d)(i) The date of the first sale of securities in the state of Utah; or

(1)(d)(ii) That sales have yet to occur in the state of Utah; and

(1)(e) The issuer shall submit a fee as specified in the Division's fee schedule.

(2) An issuer who has filed a Form U-2 in connection with a previous notice filing need not file another.

(3) An issuer may file an amendment to a previously filed notice of sales on Form D at any time and must file such an amendment to correct a material mistake of fact or error in the previously filed notice of sales on Form D, as soon as practicable after discovery of the mistake or error.

(4) An issuer that files an amendment to a previously filed notice of sales on Form D must provide current information in response to all requirements of the notice of sales on Form D regardless of why the amendment is filed.

KEY: mutual funds, securities, securities regulation
Date of Enactment or Last Substantive Amendment: [~~September 3, 1997~~]2008
Notice of Continuation: July 30, 2007
Authorizing, and Implemented or Interpreted Law: 61-1-15.5; 61-1-24

♦ ♦

Corrections, Administration
R251-105
Applicant Qualifications for Employment with Department of Corrections

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31997
FILED: 10/02/2008, 12:40

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The first change removes part of a sentence about employee job performance and substitutes a statement that complies with ADA requirements. A second change replaces a word with one which more accurately reflects the materials referred to.

SUMMARY OF THE RULE OR CHANGE: The first change removes the words "might adversely affect performance" and replaces them with an ADA recognized statement of "would prevent the applicant from performing the essential functions of the job." The second change removed the word "rule" and replaced it with "subsection" because the sentence was referring to a specific subsection of the rule, not the entire rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63G-3-201 and 64-13-10

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: These changes are for clarification and will not affect cost or savings to the state budget.
❖ LOCAL GOVERNMENTS: These changes are for clarification and will not affect cost or savings to local government budgets.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: These changes are for clarification and will not affect cost or savings to small businesses or persons other than businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance costs for these changes, nor do they affect any person.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will have no fiscal impact on any business. Thomas E. Patterson, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: Thomas E. Patterson, Executive Director

R251. Corrections, Administration.
R251-105. Applicant Qualifications for Employment with Department of Corrections.
R251-105-1. Authority and Purpose.
(1) This rule is authorized by Section [~~63-46a-3~~]63G-3-201, 64-13-10, and 64-13-25.
(2) The purpose of this rule is to provide policies and procedures for the screening, testing, interviewing, and selecting of applicants for Department of Corrections employment.

R251-105-3. General Requirements.
It is the policy of the Department that applicants for employment:
(1) shall, for POST-certified positions, be a citizen of the United States;
(2) shall, for POST-certified positions, be a minimum of 21 years of age;
(3) shall, as a minimum, be the holder of a high school diploma or furnish evidence of successful completion of an examination indicating an equivalent achievement;
(4) may be required to pass pre-employment tests depending on position requirements;
(5) shall be free from any physical, emotional, or mental conditions which [~~might adversely affect performance~~]would prevent the applicant from performing the essential functions of the job;
(6) shall not have been convicted of a crime for which the applicant could have been imprisoned in a penitentiary of this or another state and shall not have been convicted of an offense involving dishonesty, unlawful sexual conduct, physical violence, or the unlawful use, sale or possession of a controlled substance. This [~~rule~~]subsection may not apply to all positions;
(7) shall, if required, become a POST-certified officer and maintain certification through successful completion of at least 40 hours of POST training per fiscal year; and
(8) may undergo a background investigation which may include verification of personal history, employment history and criminal records check.

KEY: corrections, employment, prisons
Date of Enactment or Last Substantive Amendment: [~~March 29, 1999~~]2008
Notice of Continuation: December 3, 2003
Authorizing, and Implemented or Interpreted Law: 63-46a-3; 64-13-10; 64-13-25

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Education, Administration
R277-470-17
Charter School Building Subaccount

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32024
FILED: 10/10/2008, 06:35

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R277-470-17 is amended to provide for staggered terms of committee membership for more effective governance and procedures for subaccount loan applications.

SUMMARY OF THE RULE OR CHANGE: The amendments change the Subaccount Committee composition and terms of membership.

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. Subaccount committee composition and terms of membership are changed to provide for more effective management, but do not involve any funding.
❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. Subaccount committee composition and terms of membership are changed to provide for more effective management, but do not involve any funding.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses AND persons other than businesses. Subaccount committee composition and terms of membership are changed to provide for more effective management, but do not involve any funding.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Subaccount committee composition and terms of membership are changed to provide for more effective management, but do not involve any funding.

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 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

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

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R277. Education, Administration.
R277-470. Charter Schools.
R277-470-17. Charter School Building Subaccount.

A. The Board shall establish or reauthorize a Subaccount Committee consistent with 53A-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-21-401(6)(a) from interested parties, including individuals [~~desiring to nominate~~]nominating themselves, before June 1. The Board shall [~~determine an appropriate number of~~]appoint five Subaccount Committee members[~~, based upon nominations~~]; the Committee shall consider the Governor's nomination as one of the five appointees.

(2) Per Section 53A-21-401(6)(a), [~~T~~]the governor shall nominate one[~~ or more~~] individual[~~s~~] who meets the qualifications of 53A-21-401(6)(a) before [~~June 1~~]the Board appoints Committee members.

(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~~]be appointed by the Board to terms that do not exceed three years.

(a) In order to stagger terms, terms of appointed Committee members shall be determined by the Board, upon the effective date of this rule.

(b) Future Committee members shall serve three year terms.

(c) The USOE Charter School Director or designee shall be a non-voting Subaccount Committee member.

B. The Subaccount Committee shall develop and the USOE shall make available a loan application that includes criteria designated under Sections 53A-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-21-401(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.

KEY: education, charter schools
Date of Enactment or Last Substantive Amendment: 2008
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

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Education, Administration
R277-606
Grants to Purchase or Retrofit Clean School Buses

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32023
FILED: 10/10/2008, 06:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to best maximize the $100,000 one-time monies for grant funding for Utah schools.

SUMMARY OF THE RULE OR CHANGE: The amendments provide for changes to definitions, changes in authority and purpose, changes to the state Board of Education Grants and Time lines, and changes to the school district responsibilities.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. Funding was provided and will be distributed to the extent of funds available.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. Funding was provided and will be distributed to the extent of funds available.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses AND other persons. Funding was provided and will be distributed to the extent of funds available.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Funding was provided and will be distributed to the extent of funds available.

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 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

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

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R277. Education, Administration.
R277-606. Grants to Purchase or Retrofit Clean School Buses.
R277-606-1. Definitions.

A. "Appropriation" for purposes of this rule means one-time funding provided by the 2008 Utah Legislature for the purpose of encouraging school districts to purchase or retrofit their school buses to meet federal standards as defined in 42 U.S.C. Sec. 16091, January 3, 2006, which are hereby incorporated by reference.

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

C. "Matching funds" [~~from school districts means monies provided by school district applicants in a fifty/fifty match for funding provided under Section 41-6a-1308 and this rule~~]means grant funding provided by the federal government or private sources to school districts for the purchase or retrofit of clean school buses as defined in 42 U.S.C. 220 Sec. 1609.

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

R277-606-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities, and by Section 41-6a-1308 which directs the Board[~~ to use the appropriation in this section to provide matching grants to school districts that agree to purchase or retrofit school buses to meet the federal standards~~], in consultation with school districts and the Air Quality Board, to adopt idling programs and standards for public school buses.

B. The purpose of the rule is to distribute [~~$100,000~~]state funds appropriated by the 2008 Legislature to school districts [~~that agree to provide matching funds~~]to match grants awarded by the federal government or private sources to purchase new school buses or retrofit existing school buses to meet designated federal clean air standards, to the extent of funds available.

R277-606-3. State Board of Education Grants and Timelines.

A. The USOE acting on behalf of the Board shall provide an electronic application for grants under Section 41-6a-1308 and R277-606 directed to school districts.

B. The USOE shall work closely with the Utah Division of Environmental Quality (DEQ) in developing the application for state funds.

[~~C. The USOE shall make applications available by June 1, 2008.~~

~~D~~]C. The USOE in consultation with the DEQ shall select grant applicants based on:

(1) availability and stability of matching funds;

(2) district support for improving school buses and maintaining and servicing the improvements;

(3) geographic and district-size diversity of applicants; and

(4) other criteria, as determined mutually by the USOE and the DEQ.

[~~E~~]D. The USOE shall notify successful grant recipients [~~no later than July 15, 2008~~]upon application approval.

[~~F~~]E. If there are insufficient grant applications that meet all requirements of Section 41-6a-1308 and R277-606, the Board may retain the funding and seek grant applicants throughout the 2008-09 school year and beyond, if necessary.

R277-606-4. School District Responsibilities.

A. School district applicants shall [~~identify matching funds from appropriate sources, as required under Section 41-6a-1308(3)~~]obtain government or private grants and receive state funds appropriated to the Board by the Legislature for the purposes of this rule.

[~~B. School district applicants shall submit grant applications no later than June 30, 2008.~~

~~C~~]B. School district applicants shall agree to participate in all evaluation and reporting requirements established by the USOE and the DEQ consistent with the purposes of Section 41-6a-1308.

KEY: school buses, retrofit, purchases, grants
Date of Enactment or Last Substantive Amendment: [~~August 7,~~] 2008
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 41-6a-1308

Environmental Quality, Air Quality
R307-405-2
Applicability

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32042
FILED: 10/14/2008, 09:21

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change updates the version of 40 CFR that is incorporated in Rule R307-405. The federal Prevention of Significant Deterioration (PSD) permitting program in 40 CFR 52.21 is incorporated by reference in Rule R307-405. Two amendments have been made to 40 CFR 52.21 since 07/01/2007, the current incorporated version.

SUMMARY OF THE RULE OR CHANGE: Updates the incorporation by reference of the 40 CFR to 07/01/2008. Changes to 40 CFR 52.21 include the exclusion of ethanol production facilities from the definition of chemical process plants, and a clarification in the record keeping requirements for a modification where there is a "reasonable possibility" that the change would result in a significant increase of any regulated New Source Review (NSR) pollutant.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 52.21

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: No cost or savings are anticipated with this rule change. No new requirements were created with this rule change.
❖ LOCAL GOVERNMENTS: No cost or savings are anticipated with this rule change. No new requirements were created with this rule change.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small Business: No cost or savings are anticipated with this rule change. No new requirements were created with this rule change. Other Persons: A possible savings may accrue due to the removal of ethanol production facilities from the definition of chemical process, which will remove ethanol production facilities from the PSD permitting program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No cost is anticipated with this rule change. No new requirements were created with this rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No cost is anticipated with this rule change. No new requirements were created with this rule change. A possible savings may accrue due to the removal of ethanol production facilities from the definition of chemical process, which will remove ethanol production facilities from the PSD permitting program.
Rick Sprott, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kimberly Kreykes at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at kkreykes@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2009

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-405. Permits: Major Sources in Attainment or Unclassified Areas (PSD).
R307-405-2. Applicability.

(1) All references to 40 CFR in R307-405 shall mean the version that is in effect on July 1, 2008[~~7~~].

(2) The provisions of 40 CFR 52.21(a)(2) are hereby incorporated by reference.

(3) Notwithstanding the exemptions in R307-401, any source that is subject to R307-405 is subject to the requirement to obtain an approval order in R307-401-5 through 8.

KEY: air pollution, PSD, Class I area
Date of Enactment or Last Substantive Amendment: [~~January 11, 2008~~]2009
Notice of Continuation: July 13, 2007
Authorizing, and Implemented or Interpreted Law: 19-2-104

♦ ——————————— ♦

Environmental Quality, Drinking Water
R309-700
Financial Assistance: State Drinking Water Project Revolving Loan Program

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32028
FILED: 10/13/2008, 09:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to: 1) add changes to the State SRF (State Revolving Fund) program made by the State Legislature in 2007 (H.B. 99) which amended Sections 73-10c-2, 73-10c-4, 73-10c-4.5, and 73-10c-5 and enacted Section 73-10c-10; 2) make the rule more consistent with Rule R309-705 (Federal SRF program); 3) clarify rule language; 4) modify the point system used to determine the terms of the loan; and 5) update and correct terminology and grammar. (DAR NOTES: H.B. 99 (2007) is found at Chapter 142, Laws of Utah 2007, and was effective 04/30/2007. The proposed amendment to Rule R309-705 is under DAR No. 32029 in this issue, November 1, 2008, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This will allow the Division of Drinking Water to improve compliance with Title R309 rules and better help protect the public against water borne health risks through funding of studies, planning, educational activities, and design of facilities. The changes will also encourage and promote regionalization of water system in order to improve their financial, managerial, and technical capabilities to serve their customers.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-4-104, 63G-4-202, and Title 73, Chapter 10c

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: These changes are not anticipated to affect the state cost of administering the state loan program. The change will allow the state to charge the state SRF program a loan origination fee to those systems borrowing funds. There will be a slight cost savings because the state

will no longer have to bill the borrowers for loan administration costs.

❖ LOCAL GOVERNMENTS: These changes will not increase the costs of the operation and maintenance for any public water system. It should provide more money (grants and low interest loans) that could directly or indirectly promote safe drinking water. The system will be charged a loan origination fee instead of being billed for loan administration costs.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: A community might have to pay a higher interest rate when borrowing money from the Drinking Water Board, if it refuses to regionalize its water system when regionalization is a feasible alternative.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This will allow the Division of Drinking Water to improve compliance with Title R309 rules and better help protect the public against water borne health risks through funding of studies, planning, educational activities, and design of facilities. The changes will also encourage and promote regionalization of water systems in order to improve their financial, managerial, and technical capabilities to serve their customers. The system will be charged a loan origination fee instead of being billed for loan administration costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The department agrees with the comments made in the cost and compliance summaries above. Rick Sprott, Executive Director

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

ENVIRONMENTAL QUALITY
DRINKING WATER
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kenneth E. Wilde at the above address, by phone at 801-536-0048, by FAX at 801-536-4211, or by Internet E-mail at kwilde@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: Ken Bousfield, Director

R309. Environmental Quality, Drinking Water.
R309-700. Financial Assistance: State Drinking Water [~~Project~~]State Revolving Fund (SRF) Loan Program.
R309-700-2. Statutory Authority.

The authority for the Department of Environmental Quality acting through the Drinking Water Board to issue loans to political subdivisions to finance all or part of drinking water project costs and to enter into "credit enhancement agreements", "interest buy-down agreements", and "Hardship Grants" is provided in Title 73, Chapter 10c, [~~Title 73, ~~]Utah Code.

R309-700-3. Definitions and Eligibility.

Title 73, Chapter 10c, subsection 4(2)(a) limits eligibility for financial assistance under this section to political subdivisions.

Definitions for terms used in this rule are given in R309-110. Definitions for terms specific to this rule are given below.

"Board" means the Drinking [~~w~~]Water Board.

"Drinking Water Project" means any work or facility that is necessary or desirable to provide water for human consumption and other domestic uses. Its scope includes collection, treatment, storage, and distribution facilities; and also includes studies, planning, education activities, and design work that will promote protecting the public from waterborne health risks.

"Project Costs" include the cost of acquiring and constructing any project including, without limitation: the cost of acquisition and construction of any facility or any modification, improvement, or extension of such facility; any cost incident to the acquisition of any necessary project, easement or right of way, engineering or architectural fees, legal fees, fiscal agents' and financial advisors' fees; any cost incurred for any preliminary planning to determine the economic and engineering feasibility of a proposed project; costs of economic investigations and studies, surveys, preparation of designs, plans, working drawings, specifications and the inspection and supervision of the construction of any facility; interest accruing on loans made under this program during acquisition and construction of the project; costs for studies, planning, education activities, and design work that will promote protecting the public from waterborne health risks; and any other cost incurred by the Board or the Department of Environmental Quality, in connection with the issuance of obligation to evidence any loan made to it under the law.

"Disadvantaged Communities" are defined as those communities located in an area which has a median adjusted gross income less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax commission from federal individual income tax returns excluding zero exemption returns, or where the estimated annual cost, including loan repayment costs, of drinking water service for the average residential user exceeds 1.75% of the median adjusted gross income. If, in the judgment of the Board, the State Tax Commission data is insufficient the Board may accept other measurements of the water users' income (i.e. local income survey or questionnaire when there is a significant difference between the number of service connections for a system and the number of tax filing for a given zip code or city).

"Drinking Water Project Obligation" means any bond, note or other obligation issued to finance all or part of the cost of acquiring, constructing, expanding, upgrading or improving a drinking water project, including, but not limited to, preliminary planning, studies, surveys, engineering or architectural fees, and preparation of plans and specifications.

"Credit Enhancement Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system for the purpose of providing methods and assistance to eligible water systems to improve the security for and marketability of drinking water project obligations.

"Eligible Water System" means any community drinking water system owned by a political subdivision of the State.

"Interest Buy-Down Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system, for the purpose of reducing the cost of financing incurred by an

eligible water system on bonds issued by the subdivision for project costs.

"Financial Assistance" means a project loan, credit enhancement agreement, interest buy-down agreement, or technical assistance.

"Interest" means an assessment applied to loan recipients. The assessment shall be calculated as a percentage of principal.

"Emergency" means an unexpected, serious occurrence or situation requiring urgent or immediate action resulting from the failure of equipment or other infrastructure, or contamination of the water supply, threatening the health and / or safety of the public / water users.

R309-700-4. Application and Project Initiation Procedures.

The following procedures must normally be followed to obtain financial assistance from the Board:

(1) It is the responsibility of the applicant to obtain the necessary financial, legal and engineering counsel to prepare its application and an effective and appropriate financial assistance agreement.

(2) The applicant is required to submit a[~~A~~] completed application form, an engineering report listing the project alternatives considered and including a justification for the chosen alternative, a project financing plan that includes[~~ing~~] an evaluation of credit enhancement, interest buy-down and loan methods applicable to the project, and documents necessary to perform a financial capability assessment (when requested), and capacity assessment (when determined to be beneficial for evaluating project feasibility)[~~are submitted to the Board~~]. Comments from the local health department and/or district engineer may accompany the application. Comments from other interested parties such as an association of governments will also be accepted. Those costs incurred subsequent to the submission of a completed funding application form to the Board and prior to the execution of a financial assistance agreement and which meet the criteria for project costs are eligible for reimbursement from the proceeds of the financial assistance agreement.

(3) [~~An engineering and financial feasibility report is prepared by~~]Division staff will evaluate the application and supporting documentation, calculate proposed terms of financial assistance, prepare a report for review by the Board, and[~~for~~] present said report to the Board[~~'s~~] for its consideration.

(4) The Board may authorize financial assistance for the project on the basis of the staff's feasibility report and designate whether a loan, credit enhancement agreement, interest buy-down agreement, hardship grant or any combination thereof, is to be entered into, and approve the project schedule (see R309-700-13). The Board shall authorize a hardship grant only if it determines that other financing alternatives are unavailable or unreasonably expensive to the applicant (see R309-700-5). If the applicant seeks financial assistance in the form of a loan of amounts in the security account established pursuant to Chapter 10c, Title 73 [~~"~~]Utah Code[~~"~~], which loan is intended to provide direct financing of projects costs, then the Board shall authorize such loan only if it determines that credit enhancement agreements, interest buy-down agreements and other financing alternatives are unavailable or unreasonably expensive to the applicant or that a loan represents the financing alternative most economically advantageous to the state and the applicant; provided, that for purposes of this paragraph and for purposes of Section 73-10c-4(2), Utah Code, the term "loan" shall not include loans issued in connection with interest buy-down agreements as described in R309-700-[~~11~~]10(2) or in connection with any other interest buy-down arrangement.

(5) Planning Grant - The applicant must submit an application provided by the Division and attach a scope of work, project schedule, cost estimates, and a draft contract for planning services.

(6) Planning Loan - The applicant requesting a Planning Loan must complete an application for a Planning Loan, prepare a plan of study, satisfactorily demonstrate procurement of planning services, and prepare a draft contract for planning services including financial evaluations and a schedule of work.

(7) Design Grant or Loan - The applicant requesting a Design Grant or Loan must have completed an engineering plan meeting program requirements.

(8) The [~~project~~]applicant must demonstrate public support for the project. As a minimum, for a loan to be secured by a revenue bond, the Sponsor must mail notices to each water user in the Sponsor's service area informing them of a public hearing. In addition to the time and location of the public hearing the notice shall inform water users of the Sponsor's intent to issue a non-voted revenue bond to the Board, shall describe the face amount of the bond, the rate of interest, the repayment schedule and shall describe the impact of the project on the user including: user rates, impact and connection fees. The notice shall state that water users may respond to the Sponsor in writing or in the public hearing within ten days after the date of the notice. A copy of all written responses and a certified record of a public hearing shall be forwarded to the Division of Drinking Water.

(9) For financial assistance mechanisms when the applicant's bond is purchased by the Board, the project applicant's bond documentation, including an opinion from legal counsel experienced in bond matters that the drinking water project obligation is a valid and binding obligation of the applicant (see R309-700-[~~14~~]13(3)), must be submitted to the Assistant Attorney General for preliminary approval and the applicant shall publish a Notice of Intent to issue bonds in a newspaper of general circulation pursuant to the Utah Code, Section 11-14-21. For financial assistance mechanisms when the applicant's bond is not purchased by the Board, the applicant shall submit a true and correct copy of an opinion from legal counsel experienced in bond matters that the drinking water project obligation is a valid and binding obligation of the applicant.

(10) Hardship Grant - The Board or its designee executes a grant agreement setting forth the terms and conditions of the grant.

(11) As authorized in 19-4-106(3) of the Utah Code, the Executive Secretary may review plans, specifications, and other data pertinent to proposed or expanded water supply systems to insure proper design and construction, as specified in rule R309-500-4 General. Construction of a public drinking water project shall not begin until complete plans and specifications have been approved in writing by the Executive Secretary.[~~The Board, through its Executive Secretary, shall issue a Plan Approval for plans and specifications.~~]

(12) If a project is designated to be financed by the Board through a loan or an interest buy-down agreement as described in R309-700-[~~11~~]10(2) to cover any part of project costs an account supervised by the applicant and the Board will be established by the applicant to assure that loan funds are used only for qualified project costs. If financial assistance for the project is provided by the Board in the form of a credit enhancement or interest buy-down agreement as described in R309-700-[~~11~~]10(1) all project funds will be maintained in a separate account and a quarterly report of project expenditures will be provided to the Board.

(13) If a revenue bond is to be used to secure a loan, a User Charge Ordinance must be submitted to the Board for review and approval to insure adequate provisions for debt retirement and/or operation and maintenance. If a general obligation bond is to be used to secure a loan, a User Charge Ordinance must be submitted to the Board for review and approval to insure the system will have adequate resources to provide acceptable service.

(14) A plan of operation for the completed project, including staffing with an appropriately certified (in accordance with R309-300) operator, staff training, and procedures to assure efficient start-up, operation and maintenance of the project, must be submitted by the applicant and approved by the Board, its Executive Secretary or other designee.

(15) The applicant's contract with its engineer must be submitted to the Board for review to determine that there will be adequate engineering involvement, including project supervision and inspection, to successfully complete the project.

(16) The applicant's attorney must provide an opinion to the Board regarding legal incorporation of the applicant, valid legal title to rights-of-way and the project site, and adequacy of bidding and contract documents.

(17) CREDIT ENHANCEMENT AGREEMENT AND INTEREST BUY-DOWN AGREEMENT ONLY - The Board executes the credit enhancement agreement or interest buy-down agreement setting forth the terms and conditions of the security or other forms of assistance provided by the agreement and notifies the applicant to sell the bonds (See R309-700-9 and -10[~~ and -11~~]).

(18) CREDIT ENHANCEMENT AGREEMENT AND INTEREST BUY-DOWN AGREEMENT ONLY - The applicant sells the bonds and notifies the Board of the terms of sale. If a credit enhancement agreement is utilized, the bonds shall contain the legend required by Section 73-10c-6(3)(d), Utah Code. If an interest buy-down agreement is utilized, the bonds shall bear a legend which makes reference to the interest buy-down agreement and states that such agreement does not constitute a pledge of or charge against the general revenues, credit or taxing powers of the state and that the holder of any such bond may look only to the applicant and the funds and revenues pledged by the applicant for the payment of interest and principal on the bonds.

(19) The applicant opens bids for the project.

(20) LOAN ONLY - The Board approves purchase of the bonds and executes the loan contract (see R309-700-4(24)).

(21) LOAN ONLY - The loan closing is conducted.

(22) A preconstruction conference shall be held.

(23) The applicant issues a written notice to proceed to the contractor.

(24) The applicant must have adopted a Water [~~Management and~~]Conservation Plan prior to executing the loan agreement.

R309-700-5. Loan, Credit Enhancement, Interest Buy-Down, and Hardship Grant Consideration Policy.

(1) Board Priority Determination. In determining the priority for financial assistance the Board shall consider:

(a) The ability of the applicant to obtain funds for the drinking water project from other sources or to finance such project from its own resources;

(b) The ability of the applicant to repay the loan or other project obligations;

(c) Whether a good faith effort to secure all or part of the services needed from the private sector through privatization has been made; and

(d) Whether the drinking water project:

(i) meets a critical local or state need;

(ii) is cost effective;

(iii) will protect against present or potential hazards;

(iv) is needed to comply with the minimum standards of the Federal Safe Drinking Water Act, 42 USC, 300f, et. seq. or similar or successor statute;

(v) is needed to comply with the minimum standards of the Utah Safe Drinking Water Act, Title 19, Chapter 4 or similar or successor statute.

(vi) is needed as a result of an Emergency.

(e) The overall financial impact of the proposed project on the citizens of the community, including direct and overlapping indebtedness, tax levies, user charges, impact or connection fees, special assessments, etc., resulting from the proposed project, and anticipated operation and maintenance costs versus the median income of the community;

(f) Consistency with other funding source commitments which may have been obtained for the project;

(g) The point total from an evaluation of the criteria listed in Table 1;

TABLE 1

NEED FOR PROJECT	POINTS
1. PUBLIC HEALTH AND WELFARE (SELECT ONE)	
A. There is evidence that waterborne illnesses have occurred	15
B. There are reports of illnesses which may be waterborne	10
C. No reports of waterborne illness, but high potential for such exists	5
D. No reports of possible waterborne illness and low potential for such exists	0
2. WATER QUALITY RECORD (SELECT ONE)	
A. Primary Maximum Contaminant Level (MCL) violation more than 6 times in preceding 12 months	15
B. In the past 12 months violated a primary MCL 4 to 6 times	12
C. In the past 12 months violated a primary MCL 2 to 3 times or exceeded the Secondary Drinking Water Standards by double	9
D. In the past 12 months violated MCL 1 time	6
E. Violation of the Secondary Drinking Water Standards	5
F. Does not meet all applicable MCL goals	3
G. Meets all MCLs and MCL goals	0
3. VERIFICATION OF POTENTIAL SHORTCOMINGS (SELECT ONE)	
A. Has had sanitary survey within the last year	5
B. Has had sanitary survey within the last five years	3
C. Has not had sanitary survey within last five years	0
4. GENERAL CONDITIONS OF EXISTING FACILITIES (SELECT ALL THOSE WHICH ARE TRUE AND PROJECT WILL REMEDY)	
A. The necessary water treatment facilities do not exist, not functioning, functioning but do not meet the requirements of the Utah Public Drinking Water Rules (UPDWR)	10
B. Sources are not developed or protected according to UPDWR	10
C. Source capacity is not adequate to meet current demands and system occasionally goes dry or suffers from low pressures	10
D. Significant areas within distribution system have inadequate fire protection	8
E. Existing storage tanks leak excessively or are structurally flawed	5
F. Pipe leak repair rate is greater than 4 leaks per 100 connections per year	2

G. Existing facilities are generally sound and meeting existing needs	0
5. ABILITY TO MEET FUTURE DEMANDS (Select One)	
A. Facilities have inadequate capacity and cannot reliably meet current demands	10
B. Facilities will become inadequate within the next three years	5
C. Facilities will become inadequate within the next five to ten years	3
6. OVERALL URGENCY (Select One)	
A. System is generally out of water. There is no fire protection or water for flushing toilets	10
B. System delivers water which cannot be rendered safe by boiling	10
C. System delivers water which can be rendered safe by boiling	8
D. System is occasionally out of water	5
E. Situation should be corrected, but is not urgent	0
TOTAL POSSIBLE POINTS FOR NEED FOR PROJECT	100

(h) Other criteria that the Board may deem appropriate.

(2) Drinking Water Board Financial Assistance Determination. The amount and type of financial assistance offered will be based on the following considerations:

(a) An evaluation based upon the criteria in Table[~~s~~] 2 [~~and 3~~]of the applicant's financial condition, the project's impact on the community, and the applicant's commitment to operating a responsible water system.

The interest rate to be charged by the Board for its financial assistance will be computed using the number of points assigned to the project from Table 2 to reduce, in a manner determined by Board resolution from time to time, the most recent Revenue Bond Buyer Index (RBBI) as published by the Bond Buyer's Guide. The interest rate so calculated will be assigned to the financial assistance. To encourage rapid repayment of a loan the Board will increase the interest rate 0.02 per cent (0.02%) for each year the repayment period exceeds five (5.0) years.

For hardship grant consideration, exclusive of planning and design grants or loans described in Sections R309-700-6, 7 and 8, the estimated annual cost of drinking water service for the average residential user should exceed 1.75% of the median adjusted gross household income from the most recent available State Tax Commission records or the local median adjusted gross income (MAGI) is less than or equal to eighty-percent (80.0%) of the State's median adjusted gross income. When considering funding for planning and design grants and loans described in Sections R309-700-6, 7 and 8, the Board will consider whether or not the applicant's local MAGI meets the above criteria for hardship grant funding. If, in the judgment of the Board, the State Tax Commission data is insufficient, the Board may accept other measurements of the water users' income (i.e. local income survey or questionnaire when there is a significant difference between the number of service connections for a system and the number of tax filings for a given zip code or city). The Board will also consider the applicant's level of contribution to the project.

TABLE 2

FINANCIAL CONSIDERATIONS	POINTS
1. COST EFFECTIVENESS RATIO (SELECT ONE)	
A. Project cost $0 to $500 per benefitting connection	13
B. $501 to $1,500	11
C. $1,501 to $2,000	9
D. $2,001 to $3,000	6
E. $3,001 to $5,000	3
F. $5,001 to $10,000	1
G. Over $10,000	0
[~~2. PRIVATE SECTOR OR OTHER FUNDING, BUT NOT OWN CONTRIBUTION (SELECT ONE)~~	
~~A. A reasonable search for it has been made without success~~	~~10~~
~~B. Will provide greater than 50% of project cost~~	~~10~~
~~C. Will provide 25 to 49% of project cost~~	~~8~~
~~D. Will provide 10 to 24% of project cost~~	~~5~~
~~E. Will provide 1 to 9% of project cost~~	~~3~~
~~F. Has not been investigated~~	~~0~~
]	
[~~3~~]2. CURRENT LOCAL MEDIAN ADJUSTED GROSS INCOME (AGI) (SELECT ONE)	
A. Less than 70% of State Median AGI	[~~15~~]16
B. 71 to [~~90~~]80% of State Median AGI	[~~12~~]14
C. 81 to 95% of State Median AGI	12
[~~C~~]D. [~~91~~]96 to [~~115~~]110% of State Median AGI	9
[~~D~~]E. [~~116~~]111 to [~~135~~]130% of State Median AGI	6
[~~E~~]F. [~~136~~]131 to [~~160~~]150% of State Median AGI	3
[~~F~~]G. Greater than [~~161~~]150% of State Median AGI	0
[~~4~~]3. APPLICANT'S COMMITMENT TO PROJECT PROJECT FUNDING CONTRIBUTED BY APPLICANT (SELECT ONE)	
[~~a~~]A. Greater than 25% of project funds	15
[~~b~~]B. [~~10~~]15 to 25% of project funds	12
C. 10 to 15% of project funds	9
[~~c~~]D. 5 to 9% of project funds	[~~9~~]6
[~~d~~]E. 2 to 4% of project funds	[~~6~~]3
[~~e~~]F. Less than 2% of project funds	0
4 and 5. ABILITY TO REPAY LOAN:	
[~~5A~~]4. WATER BILL (INCLUDING TAXES) AFTER PROJECT IS BUILT RELATIVE TO LOCAL MEDIAN ADJUSTED GROSS INCOME (SELECT ONE)	
[~~a~~]A. Greater than 2.50% of local median AGI	15
[~~b~~]B. 2.01 to 2.50% of local median AGI	11
[~~c~~]C. 1.51 to 2.00% of local median AGI	7
[~~d~~]D. 1.01 to 1.50% of local median AGI	3
[~~e~~]E. 0 to 1.00% of local median AGI	0
5[~~B~~]. TOTAL DEBT LOAD (PRINCIPAL ONLY) OF APPLICANT AFTER PROJECT IS CONSTRUCTED (INCLUDING WATER AND SEWER DEBT, LIGHTING DEBT, SCHOOL DEBT, ETC.) (SELECT ONE)	
[~~a~~]A. Greater than 12% of fair market value	15
[~~b~~]B. 8.1 to 12% of fair market value	12
[~~c~~]C. 4.1 to 8.0% of fair market value	9
[~~d~~]D. 2.1 to 4.0% of fair market value	6
[~~e~~]E. 1.0 to 2.0% of fair market value	3
[~~f~~]F. Less than 1% of fair market value	0
6. SPECIAL INCENTIVES Applicant:	
[~~A. is using a master plan which includes water management and conservation~~	~~4~~

][~~B~~]A. has a replacement fund receiving annual deposits of 5% of drinking water budget, and	[~~4~~]5
has already accumulated a minimum of 25% of said annual DW budget in this reserve fund.	
[~~C~~]B. is creating or enhancing a regionalization Plan	[~~4~~]16
[~~D~~]C. has a rate structure encouraging conservation	[4]5
[~~E. has received a Quality Community designation~~	~~4~~
]	
TOTAL POSSIBLE POINTS FOR FINANCIAL NEED	100

(b) Optimizing return on the security account while still allowing the project to proceed.

(c) Local political and economic conditions.

(d) Cost effectiveness evaluation of financing alternatives.

(e) Availability of funds in the security account.

(f) Environmental need.

(g) Other criteria the Board may deem appropriate.

R309-700-6. Planning Grant.

(1) A Planning Grant can only be made to a political subdivision with a population less than 10,000 people demonstrating an urgent need to evaluate its drinking water system's technical, financial and managerial capacity, and lacks the financial means to readily accomplish such an evaluation.[~~A Planning Grant will be limited to $10,000 or the estimated cost of the planning effort, whichever is less unless otherwise approved by the Board~~].

(2) Qualifying for a Planning Grant will be based on the criteria listed in R309-700-5(2)(a).

(3) The applicant must demonstrate that all funds necessary to complete project planning will be available prior to commencing the planning effort. The Planning Grant will be deposited with these other funds into a supervised escrow account at the time the grant agreement between the applicant and the Board is executed or the Board may choose to provide the funds in incremental disbursements as the applicant incurs expenses on the project.

[~~(3)~~](4) Failure on the part of the recipient of a Planning Grant to implement the findings of the plan may prejudice any future applications for drinking water project funding.

[~~(4)~~](5) The recipient of a Planning Grant must first receive written approval for any cost increases or changes to the scope of work.

[~~(5)~~](6) The Planning Grant recipient must provide a copy of the planning project results to the Division. The planning effort shall conform to rules R309.

R309-700-12. Project Authorization (Reference R309-700-4(4)).

A project may be "Authorized" for a loan, credit enhancement agreement, interest buy-down agreement, or hardship grant in writing by the Board following submission and favorable review of an application form, engineering report (if required), financial capability assessment, [~~and~~]staff feasibility report, and capacity assessment (when determined to be beneficial for evaluating project feasibility). The engineering report shall include a cost effectiveness analysis of feasible project alternatives capable of meeting State and Federal drinking water requirements. It shall include consideration of monetary costs including the present worth or equivalent annual value of all capital costs, operation, maintenance, and replacement costs. The alternative selected must be the most economical means of meeting applicable State and Federal drinking water requirements over the useful life of the facility while recognizing environmental and other nonmonetary considerations. If it is anticipated that a project will be a candidate for financial assistance from the Board, the Staff should be contacted, and the plan of study for the engineering report (if required) should be approved before the planning is initiated.

Once the application form[~~,~~] and other related documents have been reviewed and assessments made[~~plan of study, engineering report, and financial capability assessment are reviewed~~], the staff will prepare a project feasibility report for the Board's consideration in Authorizing a project. The project feasibility report will include a detailed evaluation of the project with regard to the Board's funding priority criteria, and will contain recommendations for the type of financial assistance which may be extended (i.e., for a loan, credit enhancement agreement, interest buy-down agreement, or hardship grant).

Project Authorization is not a contractual commitment and is conditioned upon the availability of funds at the time of loan closing or signing of the credit enhancement, interest buy-down, or grant agreement and upon adherence to the project schedule approved at that time. If the project is not proceeding according to the project schedule the Board may withdraw the project Authorization so that projects which are ready to proceed can obtain necessary funding. Extensions to the project schedule may be considered by the Board, but any extension requested must be fully justified.

R309-700-13. Financial Evaluations.

(1) The Board considers it a proper function to assist and give direction to project applicants in obtaining funding from such State, Federal or private financing sources as may be available to achieve the most effective utilization of resources in meeting the needs of the State. This may also include joint financing arrangements with several funding agencies to complete a total project.

(2) Hardship Grants will be evidenced by a grant agreement.

(3) In providing any form of financial assistance in the form of a loan, the Board may purchase bonds of the applicant only if the bonds are accompanied by a legal opinion of recognized municipal bond counsel to the effect that the bonds are legal and binding under applicable Utah law (including, if applicable, the Utah Municipal Bond Act). For bonds of $150,000 or less the Board will not require this opinion.

(a) In providing any form of financial assistance in the form of a loan, the Board may purchase either a taxable or non-taxable bonds; provided that it shall be the general preference of the Board to purchase bonds issued by the applicant only if the bonds are tax exempt and are accompanied by a legal opinion of recognized municipal bond counsel to the effect that interest on the bonds is exempt from federal income taxation. Such an opinion must be obtained by the applicant in the following situations:

(i) Bonds which are issued to finance a project which will also be financed in part at any time by the proceeds of other bonds which are exempt from federal income taxation.

(ii) Bonds which are not subject to the arbitrage rebate provisions of Section 148 of the Internal Revenue Code of 1986 (or successor provision of similar intent), including, without limitation, bonds covered by the "small governmental units" exemption contained in Section 148(f)(4)(c) of the Internal Revenue Code of 1986 (or any successor provision of similar intent) and bonds which are not subject to arbitrage rebate because the gross proceeds from the loan will be completely expended within six months after the issuance of such bonds.

(b) In any other situations, the Board may purchase taxable bonds if it determines, after evaluating all relevant circumstances including the applicant's ability to pay, that the purchase of the taxable bonds is in the best interests of the State and applicant.

(c) If more than 25 percent of the project is to serve industry, bond counsel must evaluate the loan to ensure the tax exempt status of the loan fund.

(d) Revenue bonds purchased by the Board shall be secured by a pledge of water system revenues, and it is the general policy of the Board that the pledge of water revenues for the payment of debt service (principal and/or interest) on a particular revenue bond be on a parity with the pledge of those water revenues as security for the debt service payments on all other bonds or other forms of indebtedness which are secured by the water revenues.

(4) The Board will consider the financial feasibility and cost effectiveness [~~evaluation~~]of the project in detail. The financial capability assessment must be completed as a basis for the review. The Board may require that a full capacity assessment be made for a given project. The Board will generally use these reports and assessments to determine whether a project will be Authorized to receive a loan, credit enhancement agreement, interest buy-down agreement, or hardship grant (Reference R309-700-9, -10 and -11). If a project is Authorized to receive a loan, the Board will establish the portion of the construction cost to be included in the loan and will set the terms for the loan. The Board will require the applicants to repay the loan as rapidly as is reasonably consistent with the financial capability of the applicant. It is the Board's intent to avoid repayment schedules which would exceed the design life of the project facilities.

(5) Normal engineering and investigation costs incurred by the Department of Environmental Quality or Board during preliminary project investigation and prior to Board Authorization will not become a charge to the applicant if the project is found infeasible, denied by the Board, or if the applicant withdraws the Application prior to the Board's Authorization. If the credit enhancement agreement or interest buy-down agreement does not involve a loan of funds from the Board, then administrative costs will not be charged to the project. However, if the project is Authorized to receive a loan or grant of funds from the Board, all costs from the beginning of the project will be charged to the project and paid by the applicant as a part of the total project cost. If the applicant decides not to build the project after the Board has Authorized the project, all costs accruing after the Authorization will be reimbursed by the applicant to the Board.

(6) The Board shall determine the date on which the scheduled payments of principal and interest will be made. In fixing this date, all possible contingencies shall be considered, and the Board may allow the system one year of actual use of the project facilities before the first repayment of principal is required.

(7) The applicant shall furnish the Board with acceptable evidence that the applicant is capable of paying its share of the construction costs during the construction period.

(8) LOANS AND INTEREST BUY-DOWN AGREEMENTS ONLY - The Board may require, as part of the loan or interest buy-down agreement, that any local funds which are to be used in financing the project be committed to construction prior to or concurrent with the committal of State funds.

(9) The Board will not forgive the applicant of any payment after the payment is due.

(10) The Board will require a debt service reserve account be established by the applicant at or before the loan is closed. Deposits to that account shall be made at least annually in the amount of one-tenth of the annual payment on the bond(s) purchased by the Board and shall continue until the total amount in the debt service reserve fund is equal to the annual payment. The debt service reserve account shall be continued until the bond is retired. Annual reports/statements will be required. Failure to maintain the reserve account will constitute a technical default on the bond(s) and may result in penalties being assessed. Annual reports/statements will be required.

(11) The Board will require a capital facilities replacement reserve account be established at or before the loan is closed. Deposits to that account shall be made at least annually in the amount of five percent (5%) of the applicant's annual drinking water system budget, including depreciation, unless otherwise specified by the Board at the time of loan authorization, until the loan is repaid. This fund shall not serve as security for the payment of principal or interest on the loan. The applicant shall adopt such resolutions as necessary to limit the use of the fund to construct capital facilities for its water system and to notify the Board prior to making any disbursements from the fund so the Board can confirm that any expenditure is for an acceptable purpose. The applicant will not need the consent of the Board prior to making any expenditure from the fund. Failure to maintain the reserve account will constitute a technical default on the bond(s) and may result in penalties being assessed. Annual reports/statements will be required.

(12) If the Board is to purchase a revenue bond, the Board will require that the applicant's water rates be established such that sufficient net revenue will be raised to provide at least 125% or such other amount as the Board may determine of the total annual debt service.

KEY: loans, interest buy-downs, credit enhancements, hardship grants
Date of Enactment or Last Substantive Amendment: [~~August 6, 2004~~]2008
Notice of Continuation: April 2, 2007
Authorizing, and Implemented or Interpreted Law: 19-4-104; 73-10c

♦ ♦

Environmental Quality, Drinking Water
R309-705
Financial Assistance: Federal Drinking Water Project Revolving Loan Program

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32029
FILED: 10/13/2008, 09:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to: 1) add changes to the federal SRF program made by the State Legislature in 2007 (H.B. 99) which amended Sections 73-10c-2, 73-10c-4, 73-10c-4.5, and 73-10c-5 and enacted Section 73-10c-10; 2) clarify rule language; 3) modify the point system used to determine the terms of the loan; and 4) update and correct terminology and grammar. (DAR NOTE: H.B. 99 (2007) is found at Chapter 142, Laws of Utah 2007, and was effective 04/30/2007.)

SUMMARY OF THE RULE OR CHANGE: This will allow the Division of Drinking Water to improve compliance with Title R309 rules and better help protect the public against water borne health risks through funding of studies, planning, educational activities, and design of facilities. The changes will also

encourage and promote regionalization of water systems in order to improve their financial, managerial, and technical capabilities to serve their customers.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 USC 300j et seq., Sections 19-4-104 and 63G-4-202, and Title 73, Chapter 10c

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: These changes are not anticipated to affect the state cost of administering the federal loan program. The change will allow the state to charge the state SRF program a loan origination fee to those systems borrowing funds. There will be a slight cost savings because the state will no longer have to bill the borrowers for loan administration costs.

❖ LOCAL GOVERNMENTS: These changes will not increase the costs of the operation and maintenance for any public water system. It should provide more money (grants and low interest loans) that could directly or indirectly promote safe drinking water. The system will be charged a loan origination fee instead of being billed for loan administration costs.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: A community might have to pay a higher interest rate when borrowing money from the Drinking Water Board, if it refuses to regionalize its water system when regionalization is a feasible alternative.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This will allow the Division of Drinking Water to improve compliance with Title R309 rules and better help protect the public against water borne health risks through funding of studies, planning, educational activities, and design of facilities. The changes will also encourage and promote regionalization of water systems in order to improve their financial, managerial, and technical capabilities to serve their customers. The system will be charged a loan origination fee instead of being billed for loan administration costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The department agrees with the comments in the cost and compliance summaries above. Rick Sprott, Executive Director

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

ENVIRONMENTAL QUALITY
DRINKING WATER
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kenneth E. Wilde at the above address, by phone at 801-536-0048, by FAX at 801-536-4211, or by Internet E-mail at kwilde@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: Ken Bousfield, Director

R309. Environmental Quality, Drinking Water.
R309-705. Financial Assistance: Federal Drinking Water [~~Project~~]State Revolving Fund (SRF) Loan Program.
R309-705-3. Definitions.

Definitions for general terms used in this rule are given in R309-110. Definitions for terms specific to this rule are given below.

"Board" means the Drinking Water Board.

"Drinking Water Project" means any work or facility that is necessary or desirable to provide water for human consumption and other domestic uses. Its scope includes collection, treatment, storage, and distribution facilities; and also includes studies, planning, education activities, and design work that will promote protecting the public from waterborne health risks.

"Project Costs" include the cost of acquiring and constructing any project including, without limitation: the cost of acquisition and construction of any facility or any modification, improvement, or extension of such facility; any cost incident to the acquisition of any necessary property, easement or right of way, except property condemnation cost, which are not eligible costs; engineering or architectural fees, legal fees, fiscal agents' and financial advisors' fees; any cost incurred for any preliminary planning to determine the economic and engineering feasibility of a proposed project; costs of economic investigations and studies, surveys, preparation of designs, plans, working drawings, specifications and the inspection and supervision of the construction of any facility; Hardship Grant Assessments, fees and interest accruing on loans made under this program during acquisition and construction of the project; costs for studies, planning, education activities, and design work that will promote protecting the public from waterborne health risks; and any other cost incurred by the Board or the Department of Environmental Quality, in connection with the issuance of obligation to evidence any loan made to it under the law.

"Disadvantaged Communities" are defined as those communities located in an area which has a median adjusted gross income less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax commission from federal individual income tax returns excluding zero exemption returns, or where the estimated annual cost, including loan repayment costs, of drinking water service for the average residential user exceeds 1.75% of the median adjusted gross income. If, in the judgment of the Board, the State Tax Commission data is insufficient the Board may accept other measurements of the water users' income (i.e. local income survey or questionnaire when there is a significant difference between the number of service connections for a system and the number of tax filing for a given zip code or city).

"Drinking Water Project Obligation" means any bond, note or other obligation issued to finance all or part of the cost of acquiring, constructing, expanding, upgrading or improving a drinking water project, including, but not limited to, preliminary planning, studies, surveys, engineering or architectural fees, and preparation of plans and specifications.

"Credit Enhancement Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system for the purpose of providing methods and assistance to eligible

water systems to improve the security for and marketability of drinking water project obligations.

"Eligible Water System" means any community drinking water system, either privately or publicly owned; and nonprofit noncommunity water systems.

"Interest Buy-Down Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system, for the purpose of reducing the cost of financing incurred by an eligible water system on bonds issued by the subdivision for project costs.

"Financial Assistance" means a project loan, credit enhancement agreement, interest buy-down agreement, or technical assistance.

"Hardship Grant Assessment" means an assessment applied to a loan[~~recipients~~]. The assessment shall be calculated as a percentage of outstanding principal balance of a loan, applied on an annual basis. Hardship grant assessment funds shall be subject to the requirements of UAC R309-700 for hardship grants.

"Negative Interest" means a loan with an interest rate at less than zero percent. The repayment schedule for loans having a negative interest rate will be prepared by the Drinking Water Board.

"Principal Forgiveness" means a loan wherein a portion of the loan amount is "forgiven" upon closing the loan. The terms for principal forgiveness will be as directed by section 4 of this rule and by the Drinking Water Board.

"Interest" means an assessment applied to a loan[~~recipients~~]. The assessment shall be calculated as a percentage of outstanding principal balance of a loan, applied on an annual basis.

"Emergency" means an unexpected, serious occurrence of situation requiring urgent or immediate action. With regard to a water system this would be a situation resulting from the failure of equipment or other infrastructure, or contamination of the water supply, which threatens the health and / or safety of the public / water users.

"Technical Assistance" means financial assistance provided for a feasibility study or master plan, to identify and / or correct system deficiencies, to help a water system overcome other technical problems. The system receiving said technical assistance may or may not be required to repay the funds received. If repayment is required, the Board will establish the terms of repayment.

"SRF Technical Assistance Fund" means a fund (or account) that will be established for the express purpose of providing "Technical Assistance" to eligible drinking water systems.

R309-705-4. Financial Assistance Methods.

(1) Eligible Activities of the SRF.

Funds within the SRF may be used for loans and other authorized forms of financial assistance. Funds may be used for the construction of publicly or privately owned works or facilities, or any work that is an eligible project cost as defined by 73-10c-2 of the Utah Code or as allowed by 42 U.S.C.A. 300f et seq. Those costs incurred subsequent to the submission of a funding application to the Board and prior to the execution of a financial assistance agreement and which meet the above criteria are eligible for reimbursement from the proceeds of the financial assistance agreement.

(2) Types of Financial Assistance Available for Eligible Water Systems.

(a) Loans.

To qualify for "negative interest" or "principal forgiveness", the system must qualify as a "disadvantaged community" as defined in section 3 of this rule. Upon application, the Board will make a case by case determination whether the system is a "disadvantaged community". To be eligible to be considered as a disadvantaged community, the system must meet the definition provided in section 3 of this rule[~~be located in a service area or zip code area which has a median adjusted gross income which is less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax Commission from federal individual income tax returns excluding zero exemption returns~~]. Additionally, the Board will consider the type of community served by the system, the economic condition of the community, the population characteristics of those served by the system, factors relating to costs, charges and operation of the water system, and other such information as the Board determines relevant to making the decision to recognize the system as a "disadvantaged community".

(i) Hardship Grant Assessment.

The assessment will be calculated based on the procedures and formulas shown in section 6 of this rule.

(ii) Repayment.

Annual repayments of principal, interest, fees and/or Hardship Grant Assessment generally commence not later than one year after project completion. Project completion shall be defined as the date the funded project is capable of operation and a notice of "beneficial occupancy" is given to the general contractor. Where a project has been phased or segmented, the repayment requirement applies to the completion of individual phases or segments.

The loan must be fully amortized not later than 20 years after project completion or not later than 30 years after project completion if the community served by the water system is determined to be a disadvantaged community. The yearly amount of the principal repayment is set at the discretion of the Board.

(iii) Principal Forgiveness.

Eligible water systems meeting the definition of "disadvantaged community" may qualify for financial assistance in the form of forgiveness of the principal loan amount. Terms for principal forgiveness will be determined by Board resolution.

Eligible applicants for "principal forgiveness" financial assistance will be considered by the Board on a case-by-case basis. The Board will consider the type of community served by the system, the economic condition of the community, the population characteristics of those served by the system, factors relating to costs, charges and operation of the water system, and such other information as the Board determines relevant to making the decision to recognize the system as a disadvantaged community.

(iv) Negative Interest Rate.

Eligible water systems meeting the definition of "disadvantaged community" may qualify for financial assistance in the form of a loan with a negative interest rate, as determined by Board resolution.

Eligible applicants for "negative interest" financial assistance will be considered by the Board on a case-by-case basis. The Board will consider the type of community served by the system, the economic condition of the community, the population characteristics of those served by the system, factors relating to costs, charges and operation of the water system, and such other information as the Board determines relevant to making the decision to recognize the system as a disadvantaged community.

(v) Dedicated Repayment Source and Security.

Loan recipients must establish one or more dedicated sources of revenue for repayment of the loan. As a condition of financial assistance, the applicant must demonstrate a revenue source and security, as required by the Board.

(b) Refinancing Existing Debt Obligations.

The Board may use funds from the SRF to buy or refinance municipal, inter-municipal or interstate agencies, where the initial debt

was incurred and construction started after July 1, 1993. Refinanced projects must comply with the requirements imposed by the Safe Drinking Water Act(SDWA) as though they were projects receiving initial financing from the SRF.

(c) Credit Enhancement Agreements and Interest Buy-Down Agreements.

The Board will determine whether a project's funding may receive all or part of a loan, credit enhancement agreement or interest buy-down agreement. To provide security for project obligations, the Board may agree to purchase project obligations of applicants, or make loans to the applicants. The Board may also consider making loans to the applicants to pay the cost of obtaining letters of credit from various financial institutions, municipal bond insurance, or other forms of insurance or security for project obligations. The Board may also consider other methods of assistance to applicants to properly enhance the marketability of or security for project obligations.

Interest buy-down agreements may consist of any of the following:

(i) A financing agreement between the Board and applicant whereby a specified sum is loaned to the applicant. The loaned funds shall be placed in a trust account, which shall be used exclusively to reduce the cost of financing for the project.

(ii) A financing agreement between the Board and the applicant whereby the proceeds of bonds purchased by the Board is combined with proceeds from publicly issued bonds to finance the project. The rate of interest on bonds purchased by the Board may carry an interest rate lower than the interest rate on the publicly issued bonds, which when blended together will provide a reduced annual debt service for the project.

(iii) Any other legal method of financing which reduces the annual payment amount on publicly issued bonds. The financing alternative chosen should be the one most economically advantageous for the State and the applicant.

(d) Technical Assistance.

The Board may establish a fund (or account) into which the proceeds of an annual fee on loans will be placed. These funds will be used to finance technical assistance for eligible water systems.

This fund will provide low interest loans for technical assistance and any other eligible purpose as defined by Section 1452 of the Safe Drinking Water Act (SDWA) Amendments of 1996 to water systems that are eligible for Federal SRF loans. Repayment of these loans may be waived in whole or in part (grant funds) by the Board whether or not the borrower is disadvantaged.

(i) The Board may establish a fee to be assessed against loans authorized under the Federal SRF Loan Program. The revenue generated by this fee will be placed in a new fund called the "SRF Technical Assistance Fund".

(ii) The amount will be assessed as a percentage of the Principal Balance of the loan on an annual basis, the same as the annual interest and hardship grant assessment are assessed. The borrower will pay the fee annually when paying the principal and interest or hardship grant assessments.

(iii) The Board may set / change the amount of the fee from time to time as they determine meets the needs of the program.

(iv) This fee will be part of the "effective rate" calculated for the loan using Table 2, R309-705-6. This fee may be charged in lieu of or in addition to the interest rate or hardship grant assessment, but in no case will the total of the technical assistance fee, the interest rate, and hardship grant assessment exceed the "effective rate".

(v) The proceeds of the fund will be used as defined above or as modified by the Board in compliance with Section 1452 of the federal SDWA Amendments of 1996.

(3) Ineligible Projects.

Projects which are ineligible for financial assistance include:

(a) Any project for a water system in significant non-compliance, as measured by a "not approved" (R309-150) rating, unless the project will resolve all outstanding issues causing the non-compliance.

(b) Any project where the Board determines that the applicant lacks the technical, managerial, or financial capability to achieve or maintain SDWA compliance, unless the Board determines that the financial assistance will allow or cause the system to maintain long-term capability to stay in compliance.

(c) Any project meant to finance the expansion of a drinking water system to supply or attract future population growth. Eligible projects, however, can be designed and funded at a level which will serve the population that a system expects to serve over the useful life of the facility.

(d) Projects which are specifically prohibited from eligibility by Federal guidelines. These include the following:

(i) Dams, or rehabilitation of dams;

(ii) Water rights, unless the water rights are owned by a system that is being purchased through consolidation as part of a capacity development strategy;

(iii) Reservoirs, except for finished water reservoirs and those reservoirs that are part of the treatment process and are located on the property where the treatment facility is located;

(iv) Laboratory fees for monitoring;

(v) Operation and maintenance costs;

(vi) Projects needed mainly for fire protection.

R309-705-5. Application and Project Initiation Procedures.

The following procedures must normally be followed to obtain financial assistance from the Board:

(1) It is the responsibility of the applicant to obtain the necessary financial, legal and engineering counsel to prepare its application and an effective and appropriate financial assistance agreement.

(2) A completed application form and project engineering report (facility plan) listing the project alternatives considered and including a justification for the chosen alternative, a project financing plan including an evaluation of credit enhancement, interest buy-down and loan methods applicable to the project and financial capability assessment and a history of the applicant's compliance with the SDWA are submitted to the Board. Comments from other interested parties such as an association of governments, the local health and planning departments, and the Department of Environmental Quality (DEQ) District Engineers will also be accepted. Those costs incurred subsequent to the submission of a completed funding application form to the Board and prior to the execution of a financial assistance agreement and which meet the criteria for project costs are eligible for reimbursement from the proceeds of the financial assistance agreement.

(3) An engineering[~~,~~] and financial feasibility report and a capacity development analysis[~~, and financial feasibility report is~~] are prepared by Division staff for presentation to and consideration by the Board. A Capacity Assessment will be made by Division staff (See rule R309-352) for "equivalency" projects, essentially, those funded by the annual federal Capitalization Grant as defined by federal regulations. A capacity assessment may be prepared for a "non-equivalency project when it is determined to be beneficial for evaluating project feasibility.

(4) The Board may authorize financial assistance for the project on the basis of the staff's feasibility report and designate whether a loan, credit enhancement agreement, interest buy-down agreement, or any combination thereof, is to be entered into, and approve the project schedule (see section 7 of this rule).

(5) The applicant must demonstrate public support for the project prior to bonding, as deemed acceptable by the Drinking Water Board. As a minimum, for a loan to be secured by a revenue bond, the Sponsor must mail notices to each water user in the Sponsor's service area informing them of a public hearing. In addition to the time and location of the public hearing the notice shall inform water users of the Sponsor's intent to issue a non-voted revenue bond to the Board, shall describe the face amount of the bond, the "effective rate", the repayment schedule and shall describe the impact of the project on the user including: user rates, impact and connection fees. The notice shall state that water users may respond to the Sponsor in writing or in the public hearing within ten days after the date of the notice. A copy of all written responses and a certified record of the public hearing shall be forwarded to the Division of Drinking Water.

(6) For financial assistance mechanisms where the applicant's bond is purchased by the Board, the project applicant's bond documentation must include an opinion from recognized bond counsel. Counsel must be experienced in bond matters, and must include an opinion that the drinking water project obligation is a valid and binding obligation of the applicant (see section 8 of this rule). The opinion must be submitted to the Assistant Attorney General for preliminary approval and the applicant shall publish a Notice of Intent to issue bonds in a newspaper of general circulation pursuant to 11-14-21 of the Utah Code. For financial assistance mechanisms when the applicant's bond is not purchased by the Board, the applicant shall submit a true and correct copy of an opinion from legal counsel, experienced in bond matters, that the drinking water project obligation is a valid and binding obligation of the applicant.

(7) As authorized in 19-4-106(3) of the Utah Code, the Executive Secretary may review plans, specifications, and other data pertinent to proposed or expanded water supply systems to insure proper design and construction, as specified in rule R309-500-4 General. Construction of a public drinking water project shall not begin until complete plans and specifications have been approved in writing by the Executive Secretary.[~~The Board, through its Executive Secretary, shall issue, if warranted by conformance to Rules R309-500-560, a Plan Approval for plans and specifications.~~]

(8) If a project is designated to be financed by the Board through a loan or an interest buy-down agreement, an account supervised by the applicant and the Board will be established by the applicant to assure that loan funds are used only for eligible project costs. If financial assistance for the project is provided by the Board in the form of a credit enhancement or interest buy-down agreement, all project funds will be maintained in a separate account, and a quarterly report of project expenditures will be provided to the Board.

Incremental disbursement bonds will be required. Cash draws will be based on a schedule that coincides with the rate at which project related costs are expected to be incurred for the project.

(9) If a revenue bond is to be used to secure a loan, a User Charge Ordinance, or water rate structure, must be submitted to the Board for review and approval to insure adequate provisions for debt retirement and/or operation and maintenance. If a general obligation bond is to be used to secure a loan, a User Charge Ordinance must be submitted to the Board for review and approval to insure the system will have adequate resources to provide acceptable service.

(10) A "Private Company" will be required to enter into a Loan Agreement with the Board. The loan agreement will establish the procedures for disbursement of loan proceeds and will set forth the security interests to be granted to the Board by the Applicant to secure the Applicant's repayment obligations.

(a) The Board may require any of the following forms of security interest or additional/other security interests to guarantee repayment of the loan: deed of trust interests in real property, security interests in equipment and water rights, and personal guarantees.

(b) The security requirements will be established after the Board's staff has reviewed and analyzed the Applicants financial condition.

(c) These requirements may vary from project to project at the discretion of the Board

(d) The Applicant will also be required to execute a Promissory Note in the face amount of the loan, payable to the order of the lender, and file a Utah Division of Corporations and Commercial Code Financing Statement, Form UCC-1.

(e) The Board may specify that loan proceeds be disbursed incrementally into an escrow account for expected construction costs, or it may authorize another acceptable disbursement procedure.

(11) The applicant's contract with its engineer must be submitted to the Board for review to determine if there will be adequate engineering involvement, including project supervision and inspection, to successfully complete the project.

(12) The applicant's attorney must provide an opinion to the Board regarding legal incorporation of the applicant, valid legal title to rights-of-way and the project site, validity and quantity of water rights, and adequacy of bidding and contract documents, as required.

(13) A position fidelity bond may be required by the Board insuring the treasurer or other local staff handling the repayment funds and revenues produced by the applicant's system and payable to the State of Utah through the Drinking Water Board.

(14) CREDIT ENHANCEMENT AGREEMENT AND INTEREST BUY-DOWN AGREEMENT ONLY - The Board shall execute the credit enhancement agreement or interest buy-down agreement setting forth the terms and conditions of the security or other forms of assistance provided by the agreement and shall notify the applicant to sell the bonds.

(15) CREDIT ENHANCEMENT AGREEMENT AND INTEREST BUY-DOWN AGREEMENT ONLY - The applicant shall sell the bonds and shall notify the Board of the terms of sale. If a credit enhancement agreement is utilized, the bonds shall contain the legend required by 73-10c-6(3)(d) of the Utah Code. If an interest buy-down agreement is being utilized, the bonds shall bear a legend referring to the interest buy-down agreement and state that such agreement does not constitute a pledge of or charge against the general revenues, credit or taxing powers of the state and that the holder of any such bond may look only to the applicant and the funds and revenues pledged by the applicant for the payment of interest and principal on the bonds.

(16) The applicant shall open bids for the project.

(17) LOAN ONLY - The Board shall give final approval to purchase the bonds and execute the loan contract.

(18) LOAN ONLY - The closing of the loan is conducted.

(19) A preconstruction conference shall be held.

(20) The applicant shall issue a written notice to proceed to the contractor.

R309-705-6. Applicant Priority System and Selection of Terms of Assistance.

(1) Priority Determination.

The Board may, at its option, modify a project's priority rating based on the following considerations:

(a) The project plans, specifications, contract, financing, etc., of a lesser-rated project are ready for execution.

(b) Available funding.

(c) Acute health risk.

(d) Capacity Development (financial, technical, or managerial issues needing resolution to avoid EPA intervention).

(e) An Emergency.

The Board will utilize Table 1 to prioritize loan applicants as may be modified by (a), (b), (c), or (d) above.

TABLE 1
Priority System

Deficiency Description	Points Received
Source Quality/Quantity	
Health Risk (select one)	
A. There is evidence that waterborne illnesses have occurred.	25
B. There are reports of illnesses which may be waterborne.	20
C. High potential for waterborne illness exists.	15
D. Moderate potential for waterborne illness	8
E. No evidence of potential health risks	0
Compliance with SDWA (select all that apply)	
A. Source has been determined to be under the influence of surface water.	25
B. System is often out of water due to inadequate source capacity.	20
-or-	
System capacity does not meet the requirements of UPDWR.	10
C. Source has a history of three or more confirmed microbiological violations within the last year.	10
D. Sources are not developed or protected according to UPDWR.	10
E. Source has confirmed MCL chemistry violations within the last year.	10
Total	100

Treatment

Deficiency Description	Points Available
Health Risk/Compliance with SDWA (select all that apply)	
A. Treatment system cannot consistently meet log removal requirements, turbidity standards, or other enforceable drinking water quality standards.	25
B. The required disinfection facilities are not installed, are inadequate, or fail to provide adequate water quality.	25
C. Treatment system is subject to impending failure, or has failed.	25
-or-	
Treatment system equipment does not meet demands of UPDWR including the lead and/or copper action levels.	20
-or-	
System equipment is projected to become inadequate without upgrades.	5
Total	[~~80~~]75

Storage

Deficiency Description	Points Available
Health Risk / Compliance with SDWA (select all that apply)	
A. Storage system is subject to impending failure, or has failed.	25
-or-	
System is old, cannot be easily cleaned, or subject to contamination.	15
B. Storage system is inadequate for existing demands.	20
-or-	
Storage system demand exceeds 90% of storage capacity.	10
C. Applicable contact time requirements cannot be met without an upgrade.	15
D. System suffers from low static pressures.	15
Total	75

Distribution

Deficiency Description	Points Available
Health Risk/Compliance with SDWA (select all that apply)	
A. Distribution system equipment is deteriorated or inadequate for existing demands.	20
-or-	
Distribution system is inadequate to meet 5 year projected demands.	10
B. Applicable disinfectant residual maintenance requirements are not met or high backflow contamination potential exists.	20
C. Project will replace pipe containing unsafe materials (lead, asbestos, etc).	15
D. Minimum dynamic pressure requirements are not met.	10
E. System experiences a heavy leak rate in the distribution lines.	10
Total	75

Emergencies

Upon the Board finding of an emergency as required by R309-705-9. Total 100

Priority Rating = (Average Points Received) x (Rate Factor) x (AGI Factor)

Where:
* Rate Factor = (Average System Water Bill/Average State Water Bill)
** AGI Factor = (State Median AGI/System Median AGI)

(2) Financial Assistance Determination. The amount and type of financial assistance offered will be based upon the criteria shown in Table 2. As determined by Board resolution, disadvantaged communities may also receive zero-percent loans, or other financial assistance as described herein.

Effective rate calculation methods will be determined by Board resolution from time to time, using the Revenue Bond Buyer Index (RBBI)as a basis point, the points assigned in Table 2, and a method to reduce the interest rate from a recent RBBI rate down to a potential minimum of zero percent. To encourage rapid repayment of a loan the Board will increase the interest rate 0.02 per cent (0.02%) for each year the repayment period exceeds five (5.0) years.

TABLE 2
INTEREST, HARDSHIP GRANT FEE AND OTHER FEES REDUCTION FACTORS

	POINTS
1. COST EFFECTIVENESS RATIO (SELECT ONE)	
A. Project cost $0 to $500 per benefitting connection	13
B. $501 to $1,500	11
C. $1,501 to $2,000	9
D. $2,001 to $3,000	6
E. $3,001 to $5,000	3
F. $5,001 to $10,000	1
G. Over $10,000	0

[~~2. PRIVATE SECTOR OR OTHER FUNDING, BUT NOT OWN CONTRIBUTION (SELECT ONE)~~

~~A. A reasonable search for it has been made without success 10~~
~~B. Will provide greater than 50% of project cost 10~~
~~C. Will provide 25 to 49% of project cost 8~~
~~D. Will provide 10 to 24% of project cost 5~~
~~E. Will provide 1 to 9% of project cost 3~~

~~F. Has not been investigated 0~~
]
[~~3~~]2. CURRENT LOCAL MEDIAN ADJUSTED GROSS INCOME (AGI) (SELECT ONE)

A. Less than 70% of State Median AGI [~~15~~]16
B. 71 to [~~90~~]80% of State Median AGI [~~12~~]14
C. 81 to 95% of State Median AGI 12
[~~C~~]D. [~~91~~]96 to [~~115~~]110% of State Median AGI 9
[~~D~~]E. [~~116~~]111 to [~~135~~]130% of State Median AGI 6
[~~E~~]F. [~~136~~]131 to [~~160~~]150% of State Median AGI 3
[~~F~~]G. Greater than [~~161~~]150% of State Median AGI 0

[~~4~~]3. APPLICANT'S COMMITMENT TO PROJECT PROJECT FUNDING CONTRIBUTED BY APPLICANT (SELECT ONE)

A. Greater than 25% of project funds [~~12~~]15
B. [~~10~~]15 to 25% of project funds [~~9~~]12
C. 10 to 15% of project funds 9
[~~C~~]D. 5 to 9% of project funds 6
[~~D~~]E. 2 to 4% of project funds 3
[~~E~~]F. Less than 2% of project funds 0

4 and 5. ABILITY TO REPAY LOAN:

[~~5A~~]4. WATER BILL (INCLUDING TAXES) AFTER PROJECT IS BUILT RELATIVE TO LOCAL MEDIAN ADJUSTED GROSS INCOME (SELECT ONE)

[~~a~~]A. Greater than 2.50% of local median AGI 15
[~~b~~]B. 2.01 to 2.50% of local median AGI 11
[~~c~~]C. 1.51 to 2.00% of local median AGI 7
[~~d~~]D. 1.01 to 1.50% of local median AGI 3
[~~e~~]E. 0 to 1.00% of local median AGI 0

5[~~B~~]. TOTAL DEBT LOAD (PRINCIPAL ONLY) OF APPLICANT AFTER PROJECT IS CONSTRUCTED (INCLUDING WATER AND SEWER DEBT, LIGHTING DEBT, SCHOOL DEBT, ETC.) (SELECT ONE)

[~~a~~]A. Greater than 12% of fair market value 15
[~~b~~]B. 8.1 to 12% of fair market value 12
[~~c~~]C. 4.1 to 8.0% of fair market value 9
[~~d~~]D. 2.1 to 4.0% of fair market value 6
[~~e~~]E. 1.0 to 2.0% of fair market value 3
[~~f~~]F. Less than 1% of fair market value 0

6. SPECIAL INCENTIVES
Applicant:

[~~A. is using a master plan which includes water management and conservation 4~~
][~~B~~]A. has a replacement fund receiving annual deposits of 5% of drinking water budget, and has already accumulated a minimum of 25% of said annual DW budget in this reserve fund. [~~4~~]5
[~~C~~]B. is creating or enhancing a regionalization plan [~~4~~]16
[~~D~~]C. has a rate structure encouraging conservation [~~4~~]5
[~~E. has received a Quality Community designation 4~~
]
TOTAL POSSIBLE POINTS FOR FINANCIAL NEED 100

R309-705-12. Compliance with Federal Requirements.

(1) Applicants must show the legal, institutional, managerial, and financial capability to construct, operate, and maintain the drinking water system(s) that the project will serve.

(2) Applicant(s) shall require its contractors to comply with federal provisions for disadvantaged business enterprises and exclusions for businesses under suspension and/or debarment. Any bidder not complying with these requirements shall be considered a non-responsive bidder.

(3) As required by Federal Code, applicants may be subject to the following federal requirements (all assessments shall consider the impacts of the project twenty (20) years into the future):

Archeological and Historic Preservation Act of 1974, Pub. L. 86-523, as amended

Clean Air Act, Pub. L. 84-159, as amended

Coastal Barrier Resources Act, Pub. L. 97-348

Coastal Zone Management Act, Pub. L. 92-583, as amended

Endangered Species Act, Pub. L. 92-583

Environmental Justice, Executive Order 12898

Floodplain Management, Executive Order 11988 as amended by Executive Order 12148

Protection of Wetlands, Executive Order 11990

Farmland Protection Policy Act, Pub. L. 97-98

Fish and Wildlife Coordination Act, Pub. L. 85-624

National Environmental Policy Act of 1969 (NEPA), Pub. L. 91-190

National Historic Preservation Act of 1966, PL 89-665, as amended

Safe Drinking Water Act, Pub. L. 93-523, as amended

Wild and Scenic Rivers Act, Pub. L. 90-542, as amended

Age Discrimination Act of 1975, Pub. L. 94-135

Title VI of the Civil Rights Act of 1964, Pub. L. 88-352

Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 (the Clean Water Act)

Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (including Executive Orders 11914 and 11250)

The Drug-Free Workplace Act of 1988, Pub. L. 100-690 (applies only to the capitalization grant recipient)

Equal Employment Opportunity, Executive Order 11246

Women's and Minority Business Enterprise, Executive Orders 11625, 12138 and 12432

Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590

Anti-Lobbying Provisions (40 CFR Part 30)

Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754, as amended

Procurement Prohibitions under Section 306 of the Clean Water Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans

Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended

Debarment and Suspension, Executive Order 12549

Accounting procedures, whereby applicants agree to maintain a separate project account in accordance with Generally Accepted Accounting Standards and Utah State Uniform Accounting requirements.

KEY: SDWA, financial assistance, loans
Date of Enactment or Last Substantive Amendment: [~~August 6, 2004~~]2008
Notice of Continuation: April 2, 2007
Authorizing, and Implemented or Interpreted Law: 19-4-104; 73-10c

Environmental Quality, Radiation Control
R313-21
General Licenses

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32050
FILED: 10/14/2008, 15:58

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As part of the five-year review, it was noted that Nuclear Regulatory Commission compatibility requirements necessitated the changes to this rule.

SUMMARY OF THE RULE OR CHANGE: The changes include: appropriately adding Agreement State authority over Naturally Occurring Radioactive Materials and Accelerator-Produced Radioactive Materials; and clarification of the authority of the Executive Secretary to issue certain General Licensees to specific types of devices.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-3-104

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The proposed changes do not add or remove significant requirements that affect the radiation control program or the Utah Radiation Control Board.

❖ LOCAL GOVERNMENTS: Some local government agencies hold a radioactive material license, but there is no anticipated cost or savings for local government agencies. The proposed changes do not add or remove significant requirements that affect the radiation control program or the Utah Radiation Control Board.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small businesses and persons other than businesses may hold a radioactive material license, but there is no anticipated cost or savings for small businesses and persons other than businesses. The proposed changes do not add or remove significant requirements that affect the radiation control program or the Utah Radiation Control Board.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no changes in compliance costs for persons affected by Rule R313-21. The proposed changes do not add or remove significant requirements that affect the radiation control program or the Utah Radiation Control Board.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses with a radioactive material license will not see a fiscal impact due to the proposed changes to Rule R313-21. The proposed changes do not add or remove significant requirements that affect the radiation control program or the Utah Radiation Control Board.
Richard W. Sprott, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
RADIATION CONTROL
Room 212
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mario A. Bettolo at the above address, by phone at 801-536-4256, by FAX at 801-533-4097, or by Internet E-mail at mbettolo@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/2008

AUTHORIZED BY: Dane Finerfrock, Director

R313. Environmental Quality, Radiation Control.
R313-21. General Licenses.
R313-21-21. General Licenses--Source Material.

(1) A general license is hereby issued authorizing commercial and industrial firms, research, educational and medical institutions, and state and local government agencies to use and transfer not more than 6.82 kilogram (15 lb) of source material at any one time for research, development, educational, commercial, or operational purposes. A person authorized to use or transfer source material, pursuant to this general license, may not receive more than a total of 68.2 kilogram (150 lb) of source material in any one calendar year.

(2) Persons who receive, possess, use, or transfer source material pursuant to the general license issued in R313-21-21(1) are exempt from the provisions of R313-15 and R313-18, to the extent that such receipt, possession, use or transfer is within the terms of the general license; provided, however, that this exemption shall not be deemed to apply to a person who is also in possession of source material under a specific license issued pursuant to R313-22.

(3) Persons who receive, possess, use, or transfer source material pursuant to the general license in R313-21-21(1) are prohibited from administering source material, or the radiation therefrom, either externally or internally, to human beings except as may be authorized by the Executive Secretary in a specific license.

(4) A general license is hereby issued authorizing the receipt of title to source material without regard to quantity. This general license does not authorize a person to receive, possess, use, or transfer source material.

(5) Depleted uranium in industrial products and devices.

(a) A general license is hereby issued to receive, acquire, possess, use, or transfer, in accordance with the provisions of R313-21-21(5)(b), (c), (d), and (e), depleted uranium contained in industrial products or devices for the purpose of providing a concentrated mass in a small volume of the product or device.

(b) The general license in R313-21-21(5)(a) applies only to industrial products or devices which have been manufactured either in accordance with a specific license issued to the manufacturer of the products or devices pursuant to R313-22-75(11) or in accordance with

a specific license issued to the manufacturer by the Nuclear Regulatory Commission, an Agreement State, or a Licensing State which authorizes manufacture of the products or devices for distribution to persons generally licensed by the Nuclear Regulatory Commission, an Agreement State, or a Licensing State.

(c)(i) Persons who receive, acquire, possess, or use depleted uranium pursuant to the general license established by R313-21-21(5)(a) shall file form DRC-12 "Registration Form-Use of Depleted Uranium Under General License," with the Executive Secretary. The form shall be submitted within 30 days after the first receipt or acquisition of depleted uranium. The registrant shall furnish on form DRC-12 the following information and other information as may be required by that form:

(A) name and address of the registrant;

(B) a statement that the registrant has developed and will maintain procedures designed to establish physical control over the depleted uranium described in R313-21-21(5)(a) and designed to prevent transfer of such depleted uranium in any form, including metal scrap, to persons not authorized to receive the depleted uranium; and

(C) name [~~or~~]and title, address, and telephone number of the individual duly authorized to act for and on behalf of the registrant in supervising the procedures identified in R313-21-21(5)(c)(i)(B).

(ii) The registrant possessing or using depleted uranium under the general license established by R313-21-21(5)(a) shall report in writing to the Executive Secretary any changes in information previously furnished on [~~the~~]form DRC-12 "Registration Form - Use of Depleted Uranium Under General License." The report shall be submitted within 30 days after the effective date of the change.

(d) A person who receives, acquires, possesses, or uses depleted uranium pursuant to the general license established by R313-21-21(5)(a):

(i) shall not introduce depleted uranium, in any form, into a chemical, physical, or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium;

(ii) shall not abandon depleted uranium;

(iii) shall transfer or dispose of depleted uranium only by transfer in accordance with the provisions of R313-19-41. In the case where the transferee receives the depleted uranium pursuant to the general license established by R313-21-21(5)(a), the transferor shall furnish the transferee a copy of R313-21[~~-21(5)~~] and a copy of form DRC-12. In the case where the transferee receives the depleted uranium pursuant to a general license contained in the Nuclear Regulatory Commission's or Agreement State's regulation equivalent to R313-21-21(5)(a), the transferor shall furnish the transferee a copy of this rule and a copy of form DRC-12 accompanied by a note explaining that use of the product or device is regulated by the Nuclear Regulatory Commission or Agreement State under requirements substantially the same as those in R313-21[~~-21(5)~~];

(iv) within 30 days of any transfer, shall report in writing to the Executive Secretary the name and address of the person receiving the depleted uranium pursuant to the transfer;

(v) shall not export depleted uranium except in accordance with a license issued by the Nuclear Regulatory Commission pursuant to 10 CFR Part 110; and

(vi) shall pay annual fees pursuant to R313-70.

(e) Any person receiving, acquiring, possessing, using, or transferring depleted uranium pursuant to the general license established by R313-21-21(5)(a) is exempt from the requirements of R313-15 and R313-18 of these rules with respect to the depleted uranium covered by that general license.

R313-21-22. General Licenses*--Radioactive Material Other Than Source Material.

NOTE: *Different general licenses are issued in this section, each of which has its own specific conditions and requirements.

(1) Certain devices and equipment. A general license is hereby issued to transfer, receive, acquire, own, possess, and use radioactive material incorporated in the following devices or equipment which have been manufactured, tested and labeled by the manufacturer in accordance with[~~-the specifications contained in~~] a specific license issued to the manufacturer by the Executive Secretary, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State for use pursuant to 10 CFR 31.3. This general license is subject to the provisions of R313-12-51 through R313-12-70, R313-14, R313-15, R313-18 and R313-19 [~~of these rules~~]as applicable.

(a) Static Elimination Devices. Devices designed for use as static eliminators which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 megabecquerel (500 uCi) of polonium-210 per device.

(b) Ion Generating Tube. Devices designed for ionization of air which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 megabecquerel (500 uCi) of polonium-210 per device or a total of not more than 1.85 gigabecquerel (50 mCi) of hydrogen-3 (tritium) per device.

(2) RESERVED.

(3) RESERVED.

(4) Certain detecting, measuring, gauging or controlling devices and certain devices for producing light or an ionized atmosphere.*

NOTE: *Persons possessing radioactive material in devices under a general license in R313-21-22(4) before January 15, 1975, may continue to possess, use, or transfer that material in accordance with the labeling requirements of R313-21-22(4) in effect on January 14, 1975.

(a) A general license is hereby issued to commercial and industrial firms and research, educational and medical institutions, individuals in the conduct of their business, and state or local government agencies to own, acquire, receive, possess, use or transfer, in accordance with the provisions of R313-21-22(4)(b), (c) and (d), radioactive material, excluding special nuclear material, contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere.

(b)(i) The general license in R313-21-22(4)(a) applies only to radioactive material contained in devices which have been manufactured or initially transferred and labeled in accordance with the specifications contained in:

(A) a specific license issued by the Executive Secretary pursuant to R313-22-75(4); or

(B) an equivalent specific license issued by the Nuclear Regulatory Commission, an Agreement State or a Licensing State.*

NOTE: *Regulations under the Federal Food, Drug, and Cosmetic Act authorizing the use of radioactive control devices in food production require certain additional labeling thereon which is found in 21 CFR 179.21.

(ii) [~~t~~]The devices must have been received from one of the specific licensees described in R313-21-22(4)(b)(i) or through a transfer made under R313-21-22(4)(c)(ix).

(c) Any person who owns, acquires, receives, possesses, uses or transfers radioactive material in a device pursuant to the general license in R313-21-22(4)(a):

(i) shall assure that all labels affixed to the device at the time of receipt and bearing a statement that removal of the label is prohibited

are maintained thereon and shall comply with all instructions and precautions provided by the labels;

(ii) shall assure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals or at other intervals as are specified in the label; however:

(A) Devices containing only krypton need not be tested for leakage of radioactive material, and

(B) Devices containing only tritium or not more than 3.7 megabecquerel (100 uCi) of other beta, gamma, or both, emitting material or 0.37 megabecquerel (10 uCi) of alpha emitting material and devices held in storage in the original shipping container prior to initial installation need not be tested for any purpose;

(iii) shall assure that[~~the tests required by R313-21-22(4)(c)(ii) and~~] other testing, installation, servicing, and removal from installation involving the radioactive materials, its shielding or containment, are performed:

(A) in accordance with the instructions provided by the labels; or

(B) by a person holding a specific license pursuant to R313-22 or from the Nuclear Regulatory Commission, an Agreement State, or a Licensing State to perform such activities;

(iv) shall maintain records showing compliance with the requirements of R313-21-22(4)(c)(ii) and (iii). The records shall show the results of tests. The records also shall show the dates of performance of, and the names of persons performing, testing, install[~~ing~~]ation, servicing, and remov[~~ing~~]al from the installation the radioactive material and its shielding or containment. The licensee shall retain these records as follows:

(A) Each record of a test for leakage or radioactive material required by R313-21-22(4)(c)(ii) shall be retained for three years after the next required leak test is performed or until the sealed source is transferred or disposed of;

(B) Each record of a test of the on-off mechanism and indicator required by R313-21-22(4)(c)(ii) shall be retained for three years after the next required test of the on-off mechanism and indicator is performed or until the sealed source is transferred or disposed of;

(C) Each record that is required by R313-21-22(4)(c)(iii) shall be retained for three years from the date of the recorded event or until the device is transferred or disposed of;

(v) shall immediately suspend operation of the device if there is a failure of, or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 185 becquerel (0.005 uCi) or more removable radioactive material. The device may not be operated until it has been repaired by the manufacturer or other person holding a specific license to repair the device that was issued[~~under R313-22 or~~] by the Executive Secretary, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State. The device and any radioactive material from the device may only be disposed of by transfer to a person authorized by a specific license to receive the radioactive material in the device or as otherwise approved by the Executive Secretary, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State. A report containing a brief description of the event and the remedial action taken; and, in the case of detection of 185 becquerel (0.005 uCi) or more removable radioactive material or failure of or damage to a source likely to result in contamination of the premises or the environs, a plan for ensuring that the premises and environs are acceptable for unrestricted use, must be furnished to the Executive Secretary within 30 days. Under these circumstances, the criteria set out in R313-15-402 may be applicable, as determined by the Executive Secretary on a case-by-case basis;

(vi) shall not abandon [~~any~~]the device containing radioactive material;

(vii) shall not export the device containing radioactive materials except in accordance with 10 CFR 110;

(viii)(A) shall transfer or dispose of the device containing radioactive material only by export as provided by R313-21-22(4)(c)(vii), by transfer to another general licensee as authorized in R313-21-22(4)(c)(ix),[~~or~~] to a person authorized to receive the device by a specific license issued under R313-22, [~~or~~]to an authorized waste collector under R313-2[~~2~~]5[~~that authorizes waste collection~~], or equivalent regulations of the Nuclear Regulatory Commission, an Agreement State, or a Licensing State , or as otherwise approved under R313-21-22(4)(c)(viii)(C);

(B) shall furnish a report to the Executive Secretary within 30 days after transfer of a device to a specific licensee or export. The report must contain:

(I) the identification of the device by manufacturer's or initial transferor's name, model number, and serial number;

(II) the name, address, and license number of the person receiving the device, the license number is not applicable if exported; and

(III) the date of the transfer;

(C) shall obtain written approval from the Executive Secretary before transferring the device to any other specific licensee not specifically identified in R313-21-22(4)(c)(viii)(A);

(ix) shall transfer the device to another general licensee only if:

(A) the device remains in use at a particular location. In this case, the transferor shall give the transferee a copy of R313-21-22(4), R313-12-51, R313-15-1201, and R313-15-1202, and any safety documents identified in the label of the device. Within 30 days of the transfer, the transferor shall report to the Executive Secretary:

(I) the manufacturer's or initial transferor's name;

(II) the model number and serial number of the device transferred;

(III) the transferee's name and mailing address for the location of use; and

(IV) the name, title, and phone number of the responsible individual identified by the transferee in accordance with R313-21-22(4)(c)(xii) to have knowledge of and authority to take actions to ensure compliance with the appropriate regulations and requirements; or

(B) the device is held in storage by an intermediate person in the original shipping container at its intended location of use prior to initial use by a general licensee;

(x) shall comply with the provisions of R313-15-1201 and R313-15-1202 for reporting radiation incidents, theft or loss of licensed material, but shall be exempt from the other requirements of R313-15 and R313-18;

(xi) shall respond to written requests from the Executive Secretary to provide information relating to the general license within 30 calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by submitting a letter to the Executive Secretary and provide written justification as to why it cannot comply;

(xii) shall appoint an individual responsible for having knowledge of the appropriate regulations and requirements and the authority for taking required actions to comply with appropriate regulations and requirements. The general licensee, through this individual, shall ensure the day-to-day compliance with appropriate regulations and

requirements. This appointment does not relieve the general licensee of any of its responsibility in this regard;

(xiii)(A) shall register, in accordance with R313-21-22(4)(c)(xiii)(B) and (C), devices containing at least 370 megabecquerel (ten mCi) of cesium-137, 3.7 megabecquerel (0.1 mCi) of strontium-90, 37 megabecquerel (one mCi) of cobalt-60, 3.7 megabecquerel (0.1 mCi) of radium-226, or 37 megabecquerel (one mCi) of americium-241 or any other transuranic,[~~- for example, an~~] (elements with atomic number greater than uranium[~~-~~]-[~~(~~]92), based on the activity indicated on the label. Each address for a location of use, as described under R313-21-22(4)(c)(xiii)(C)(IV) [~~of this section,~~]represents a separate general licensee and requires a separate registration and fee;

(B) if in possession of a device meeting the criteria of R313-21-22(4)(c)(xiii)(A), shall register these devices annually with the Executive Secretary and shall pay the fee required by R313-70. Registration [~~must be done by one of or a combination of~~]shall include verifying, correcting, or adding, as appropriate, to the information provided in a request for registration received from the Executive Secretary. The registration information must be submitted to the Executive Secretary within 30 days of the date of the request for registration or as otherwise indicated in the request. In addition, a general licensee holding devices meeting the criteria of R313-21-22(4)(c)(xiii)(A) is subject to the bankruptcy notification requirement in R313-19-34(5) and (6);

(C) in registering devices, the general licensee shall furnish the following information and any other information specifically requested by the Executive Secretary:

(I) name and mailing address of the general licensee;

(II) information about each device: the manufacturer or initial transferor, model number, serial number, the radioisotope and activity as indicated on the label;

(III) name, title, and telephone number of the responsible person designated as a representative of the general licensee under R313-21-22(4)(c)(xii);

(IV) address or location at which the device(s) are used, stored, or both. For portable devices, the address of the primary place of storage;

(V) certification by the responsible representative of the general licensee that the information concerning the device(s) has been verified through a physical inventory and checking of label information; and

(VI) certification by the responsible representative of the general licensee that they are aware of the requirements of the general license; and

(D) persons generally licensed by the Nuclear Regulatory Commission, an Agreement State, or Licensing State with respect to devices meeting the criteria in R313-21-22(4)(c)(xiii)(A) are not subject to registration requirements if the devices are used in areas subject to Division jurisdiction for a period less than 180 days in any calendar year. The Executive Secretary will not request registration information from such licensees;

(xiv) shall report changes to the mailing address for the location of use, including changes in the name of a general licensee, to the Executive Secretary within 30 days of the effective date of the change. For a portable device, a report of address change is only required for a change in the device's primary place of storage; and

(xv) may not hold devices that are not in use for longer than 2 years. If devices with shutters are not being used, the shutter must be locked in the closed position. The testing required by R313-21-22(4)(c)(ii) need not be performed during the period of storage only. However, when devices are put back into service or transferred to another person, and have not been tested within the required test interval, they must be tested for leakage before use or transfer and the shutter tested before use. Devices kept in standby for future use are excluded from the two-year time limit if the general licensee performs quarterly physical inventories of these devices while they are in standby.

(d) The general license in R313-21-22(4)(a) does not authorize the manufacture or import of devices containing radioactive material.

(e) The general license provided in R313-21-22(4)(a) is subject to the provisions of R313-12-51 through R313-12-53, R313-12-70, R313-14, R313-19-34, R313-19-41, R313-19-61, and R313-19-100.

(5) Luminous safety devices for aircraft.

(a) A general license is hereby issued to own, receive, acquire, possess and use tritium or promethium-147 contained in luminous safety devices for use in aircraft, provided:

(i) each device contains not more than 370.0 gigabecquerel (10 Ci) of tritium or 11.1 gigabecquerel (300 mCi) of promethium-147; and

(ii) each device has been manufactured, assembled or initially transferred in accordance with a specific license issued by the Nuclear Regulatory Commission or an Agreement State, or each device has been manufactured or assembled in accordance with the specifications contained in a specific license issued by the Executive Secretary or an Agreement State to the manufacturer or assembler of the device pursuant to licensing requirements equivalent to those in R313-22-75(5).

(b) Persons who own, receive, acquire, possess or use luminous safety devices pursuant to the general license in R313-21-22(5) are exempt from the requirements of R313-15 and R313-18, except that they shall comply with the provisions of R313-15-1201 and R313-15-1202.

(c) This general license does not authorize the manufacture, assembly, repair, or import of luminous safety devices containing tritium or promethium-147.

(d) This general license does not authorize the export of luminous safety devices containing tritium or promethium-147.

(e) This general license does not authorize the ownership, receipt, acquisition, possession or use of promethium-147 contained in instrument dials.

(f) This general license is subject to the provisions of R313-12-51 through R313-12-70, R313-14, R313-19-34, R313-19-41, R313-19-61, and R313-19-100.

(6) Ownership of radioactive material. A general license is hereby issued to own radioactive material without regard to quantity. Notwithstanding any other provisions of R313-21, this general license does not authorize the manufacture, production, transfer, receipt, possession, use, import, or export of radioactive material except as authorized in a specific license.

(7) Calibration and reference sources.

(a) A general license is hereby issued[~~- to those persons listed below~~] to own, receive, acquire, possess, use and transfer, in the form of calibration or reference sources, americium-241, plutonium or radium-226 in accordance with the provisions of R313-21-22(7)([~~d~~]b) and ([~~e~~]c), [~~americium-241 in the form of calibration or reference sources:~~

~~(i) a person who holds a specific license issued by the Executive Secretary which authorizes that person to receive, possess, use and transfer radioactive material; and~~

~~(ii) a person who holds a specific license issued by the Nuclear Regulatory Commission which authorizes that person to receive, possess, use and transfer special nuclear material.~~

~~(b) A general license is hereby issued to own, receive, possess, use and transfer plutonium in the form of calibration or reference~~

~~sources in accordance with the provisions of R313-21-22(7)(d) and (e) to a person who holds a specific license issued by the Executive Secretary which authorizes that person to receive, possess, use and transfer radioactive material.~~

~~(c) A general license is hereby issued to own, receive, possess, use and transfer radium-226 in the form of calibration or reference sources in accordance with the provisions of R313-21-22(7)(d) and (e)~~]to a person who holds a specific license issued by the Executive Secretary which authorizes that person to receive, possess, use and transfer radioactive material.

([~~d~~]b) The general license[~~s~~] in R313-21-22(7)(a)[~~, (b) and (c)~~] appl[~~y~~]ies only to calibration or reference sources which have been manufactured or initially transferred in accordance with the specifications contained in a specific license issued to the manufacturer or importer of the sources by the Nuclear Regulatory Commission pursuant to 10 CFR 32.57 or 10 CFR 70.39 or which have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer by the Executive Secretary, a Licensing State, or an Agreement State [~~which authorizes manufacture of the sources for distribution to persons generally licensed by the Executive Secretary, a Licensing State, or an Agreement State~~]in accordance with requirements equivalent to 10 CFR 32.57 or 10 CFR 70.39.

([~~e~~]c) The general license[~~s~~] provided in R313-21-22(7)(a)[~~, (b), and (c) are~~] is subject to the provisions of R313-12-51 through R313-12-53, R313-12-70, R313-14, R313-19-34, R313-19-41, R313-19-61, R313-19-100, R313-15 and R313-18. In addition, persons who own, receive, acquire, possess, use or transfer one or more calibration or reference sources pursuant to these general licenses:

(i) shall not possess at any one time, at any one location of storage or use, more than 185.0 kilobecquerel (5 uCi) of americium-241, 185.0 kilobecquerel (5 uCi) of plutonium, or 185.0 kilobecquerel (5 uCi) of radium-226 in [~~a~~]such source;

(ii) shall not receive, possess, use or transfer a source unless the source, or the storage container, bears a label which includes one of the following statements or a substantially similar statement which contains the information called for in [~~one of~~]the following statement[~~s, as appropriate~~]:

[~~(A)~~]The receipt, possession, use and transfer of this source, Model No. ....., Serial No. ....., are subject to a general license and the regulations of the United States Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION - RADIOACTIVE MATERIAL

THIS SOURCE CONTAINS (AMERICIUM-241)(PLUTONIUM)(RADIUM-226)*

DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

.....

Typed or printed name of the manufacturer or importer

NOTE: *Show the name of the appropriate material.

[~~(B) The receipt, possession, use and transfer of this source, Model No....., Serial No....., are subject to a general license and the regulations of a Licensing State. Do not remove this label.~~

~~CAUTION - RADIOACTIVE MATERIAL~~

~~THIS SOURCE CONTAINS RADIUM-226~~

~~DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.~~

~~.....~~

~~Typed or printed name of the manufacturer or importer~~

] (iii) shall not transfer, abandon, or dispose of a source except by transfer to a person authorized by a license from the Executive Secretary, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State to receive the source;

(iv) shall store a source, except when the source is being used, in a closed container adequately designed and constructed to contain americium-241, plutonium, or radium-226 which might otherwise escape during storage; and

(v) shall not use a source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

(f) These general licenses do not authorize the manufacture, import, or export of calibration or reference sources containing americium-241, plutonium, or radium-226.

(8) RESERVED.

(9) General license for use of radioactive material for certain in vitro clinical or laboratory testing.*

NOTE: *The New Drug provisions of the Federal Food, Drug and Cosmetic Act also govern the availability and use of any specific diagnostic drug in interstate commerce.

(a) A general license is hereby issued to any physician, veterinarian in the practice of veterinary medicine, clinical laboratory or hospital to receive, acquire, possess, transfer or use, for the following stated tests, in accordance with the provisions of R313-21-22(9) (b), (c), (d), (e), and (f) the following radioactive materials in prepackaged units for use in in-vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals:

(i) iodine-125, in units not exceeding 370.0 kilobecquerel (10 uCi) each;

(ii) iodine-131, in units not exceeding 370.0 kilobecquerel (10 uCi) each;

(iii) carbon-14, in units not exceeding 370.0 kilobecquerel (10 uCi) each;

(iv) hydrogen-3 (tritium), in units not exceeding 1.85 megabecquerel (50 uCi) each;

(v) iron-59, in units not exceeding 740.0 kilobecquerel (20 uCi) each;

(vi) cobalt-57, in units not exceeding 370.0 kilobecquerel (10 uCi) each;

(vii) selenium-75, in units not to exceed 370.0 kilobecquerel (10 uCi) each; or

(viii) mock iodine-125, reference or calibration sources, in units not exceeding 1.85 kilobecquerel (0.05 uCi) of iodine-129 and 185.0 becquerel (0.005 uCi) of americium-241 each.

(b) A person shall not receive, acquire, possess, use or transfer radioactive material pursuant to the general license established by R313-21-22(9)(a) until that person has filed form DRC-07, "Registration Form-In Vitro Testing with Radioactive Material Under General License," with the Executive Secretary and received a Certificate of Registration signed by the Executive Secretary, or until that person has been authorized pursuant to R313-32 to use radioactive material under the general license in R313-21-22(9). The physician, veterinarian, clinical laboratory or hospital shall furnish on form DRC-07 the following information and other information as may be required by that form:

(i) name and address of the physician, veterinarian, clinical laboratory or hospital;

(ii) the location of use; and

(iii) a statement that the physician, veterinarian, clinical laboratory or hospital has appropriate radiation measuring instruments to carry out in vitro clinical or laboratory tests with radioactive material

as authorized under the general license in R313-21-22(9)(a) and that the tests will be performed only by personnel competent in the use of radiation measuring instruments and in the handling of the radioactive material.

(c) A person who receives, acquires, possesses or uses radioactive material pursuant to the general license established by R313-21-22(9)(a) shall comply with the following:

(i) The general licensee shall not possess at any one time, pursuant to the general license in R313-21-22(9)(a) at any one location of storage or use, a total amount of iodine-125, iodine-131, selenium-75, iron-59,[~~and~~] cobalt-57, or any combination, in excess of 7.4 megabecquerel (200 uCi).

(ii) The general licensee shall store the radioactive material, until used, in the original shipping container or in a container providing equivalent radiation protection.

(iii) The general licensee shall use the radioactive material only for the uses authorized by R313-21-22(9)(a).

(iv) The general licensee shall not transfer the radioactive material except [~~by transfer~~]to a person authorized to receive it pursuant to a license issued by the Executive Secretary, the Nuclear Regulatory Commission, an Agreement State or Licensing State, nor transfer the radioactive material in a manner other than in the unopened, labeled shipping container as received from the supplier.

(v) The general licensee shall dispose of the Mock Iodine-125 reference or calibration sources described in R313-21-22(9)(a)(viii) as required by R313-15-1001.

(vi) The general licensee shall pay annual fees pursuant to R313-70.

(d) The general licensee shall not receive, acquire, possess, or use radioactive material pursuant to R313-21-22(9)(a):

(i) Except as prepackaged units which are labeled in accordance with the provision of a[~~n applicable~~] specific license issued pursuant to R313-22-75(8) or in accordance with the provisions of a specific license issued by the Nuclear Regulatory Commission, an Agreement State, or a Licensing State [~~that~~]which authorizes the manufacture and distribution of iodine-125, iodine-131, carbon-14, hydrogen-3(tritium), iron-59, selenium-75, cobalt-57, or Mock Iodine-125 [~~for distribution~~]to persons generally licensed [~~by the Executive Secretary, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State,~~]under R313-22(9) or its equivalent, and

(ii) Unless [~~one of~~]the following statement[~~s, as appropriate~~], or a substantially similar statement which contains the information called for in [~~one of~~]the following statement[~~s~~], appears on a label affixed to each prepackaged unit[~~s~~] or appears in a leaflet or brochure which accompanies the package:

"This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians in the practice of veterinary medicine, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the United States Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

.....

Name of Manufacturer"

[~~"This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.~~

~~.....~~

~~Name of Manufacturer"~~

] (e) The physician, veterinarian, clinical laboratory or hospital possessing or using radioactive material under the general license in R313-21-22(9)(a) shall report in writing to the Executive Secretary, changes in the information previously furnished in the "Registration Form-In Vitro Testing with Radioactive Material Under General License", form DRC -07. The report shall be furnished within 30 days after the effective date of [~~a~~]the change.

(f) Any person using radioactive material pursuant to the general license of R313-21-22(9)(a) is exempt from the requirements of R313-15 and R313-18 with respect to radioactive material covered by that general license, except that persons using the Mock Iodine-125 described in R313-21-22(9)(a)(viii) shall comply with the provisions of R313-15-1001, R313-15-1201 and R313-15-1202.

(10) Ice Detection Devices.

(a) A general license is hereby issued to own, receive, acquire, possess, use and transfer strontium-90 contained in ice detection devices, provided each device contains not more than 1.85 megabecquerel (50 uCi) of strontium-90 and each device has been manufactured or initially transferred in accordance [~~the specifications contained in a~~]with a specific license issued [~~pursuant to R313-22-75(8) or in accordance with the specifications contained in a specific license issued to the manufacturer~~]by the Nuclear Regulatory Commission, or each device has been manufactured in accordance with the specifications contained in a specific license issued by the Executive Secretary, an Agreement State, or a Licensing State to the manufacturer of the device pursuant to licensing requirements equivalent to those in 10 CFR 32.61[~~which authorizes manufacture of the ice detection devices for distribution to persons generally licensed by the Nuclear Regulatory Commission, an Agreement State, or a Licensing State~~].

(b) Persons who own, receive, acquire, possess, use or transfer strontium-90 contained in ice detection devices pursuant to the general license in R313-21-22(10)(a):

(i) shall, upon occurrence of visually observable damage, such as a bend or crack or discoloration from over-heating to the device, discontinue use of the device until it has been inspected, tested for leakage and repaired by a person holding a specific license from the Executive Secretary, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State to manufacture or service the device; or shall dispose of the device pursuant to the provisions of R313-15-1001;

(ii) shall assure that all labels affixed to the device at the time of receipt, and which bear a statement which prohibits removal of the labels, are maintained thereon; and

(iii) are exempt from the requirements of R313-15 and R313-18 except that the persons shall comply with the provisions of R313-15-1001, R313-15-1201 and R313-15-1202.

(c) This general license does not authorize the manufacture, assembly, disassembly, repair, or import of strontium-90 in ice detection devices.

(d) This general license is subject to the provision of R313-12-51 through R313-12-53, R313-12-70, R313-14, R313-19-34, R313-19-41, R313-19-61, and R313-19-100 of these rules.

KEY: radioactive material<u>s</u>, general licenses, source material<u>s</u>
Date of Enactment or Last Substantive Amendment: [~~December 12, 2003~~]<u>2008</u>

Notice of Continuation: December 10, 2003
Authorizing, and Implemented or Interpreted Law: 19-3-104

Environmental Quality, Radiation Control
R313-38-3
Clarifications or Exceptions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32049
FILED: 10/14/2008, 15:57

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As part of the five-year review, it was noted that the edition of 10 CFR 39, incorporated by reference into Rule R313-38, was more than five years old. Updating the year of the edition of 10 CFR 39 will facilitate the regulated public's access to information and was the predominant reason for the change.

SUMMARY OF THE RULE OR CHANGE: This rule incorporates, by reference, information from 10 CFR 39. The edition year of these federal regulations was updated to 2008.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-3-104 and 19-3-108

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Updates 10 CFR 39 to the 2008 edition

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. Changing the edition year of federal regulations that are incorporated by reference in the rule does not add or remove requirements that affect the radiation control program or the Utah Radiation Control Board.

❖ LOCAL GOVERNMENTS: Some local government agencies hold a radioactive material license, but there is no anticipated cost or savings for local government agencies. A change in the edition year of federal regulations that are incorporated by reference in the rule does not add costs or create savings for local government licensees.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small businesses and persons other than businesses may hold a radioactive material license, but there is no anticipated cost or savings for small businesses and persons other than businesses. A change in the edition year of federal regulations that are incorporated by reference in the rule does not add costs or create savings for small business licensees.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no changes in compliance costs for persons affected by Rule R313-38. A change in the edition year of federal regulations that are incorporated by reference in the rule does not add costs or create savings for small business licensees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses with a radioactive material license will not see a fiscal impact due to the proposed changes to Rule R313-38. A change in the edition year of federal regulations that are incorporated by reference in the rule does not add costs or create savings for small business licensees. Richard W. Sprott, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
RADIATION CONTROL
Room 212
168 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mario A. Bettolo at the above address, by phone at 801-536-4256, by FAX at 801-533-4097, or by Internet E-mail at mbettolo@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/16/2008

AUTHORIZED BY: Dane Finerfrock, Director

R313. Environmental Quality, Radiation Control.
R313-38. Licenses and Radiation Safety Requirements for Well Logging.
R313-38-3. Clarifications or Exceptions.

For purposes of Rule R313-38, 10 CFR 39 (200[~~1~~]8), is incorporated by reference with the following clarifications or exceptions:

(1) The exclusion of the following 10 CFR sections: 39.1, 39.5, 39.8, 39.11, 39.101, and 39.103;

(2) The exclusion of the following 10 CFR references within 10 CFR 39: Sec. 40.32, and Sec. 70.33;

(3) The exclusion of "licensed material" in 10 CFR 39.2 definitions;

(4) The substitution of the following wording:

(a) License for reference to NRC license;

(b) Utah Radiation Control Rules for the references to:

(i) The Commission's regulations;

(ii) The NRC regulations;

(iii) NRC regulations; and

(iv) Pertinent Federal regulations;

(c) Executive Secretary for reference to Commission, except as stated in Subsection R313-38-3(4)(d);

(d) Representatives of the Executive Secretary for the references to the Commission in:

(i) 10 CFR 39.33(d);

(ii) 10 CFR 39.35(a);

(iii) 10 CFR 39.37;

(iv) 10 CFR 39.39(b); and

(v) 10 CFR 39.67(f);

(e) Executive Secretary or the Executive Secretary for references to:

(i) NRC in:

(A) 10 CFR 39.63(l);

(B) 10 CFR 39.77(c)(1)(i) and (ii); and

(C) 10 CFR 39.77(d)(9); and

(ii) Appropriate NRC Regional Office in:

(A) 10 CFR 39.77(a);

(B) 10 CFR 39.77(c)(1); and

(C) 10 CFR 39.77(d);

(f) Executive Secretary, the U.S. Nuclear Regulatory Commission or an Agreement State for the references to:

(i) Commission or an Agreement State in:

(A) 10 CFR 39.35(b); and

(B) 10 CFR 39.43(d) and (e); and

(ii) Commission pursuant to Sec. 39.13(c) or by an Agreement State in:

(A) 10 CFR 39.43(c); and

(B) 10 CFR 39.51;

(g) In 10 CFR 39.35(d)(1), persons specifically licensed by the Executive Secretary, the U.S. Nuclear Regulatory Commission, or an Agreement State for the reference to an NRC or Agreement State licensee that is authorized; and

(h) In 10 CFR 39.35(d)(2), reports of test results for leaking or contaminated sealed sources shall be made pursuant to Section R313-15-1208, for the reference to the following statement:

(i) The licensee shall submit a report to the appropriate NRC Regional Office listed in appendix D of part 20 of this chapter, within 5 days of receiving the test results. The report must describe the equipment involved in the leak, the test results, any contamination which resulted from the leaking source, and the corrective actions taken up to the time the report is made; and

(i) In 10 CFR 39.75(e), a U.S. Nuclear Regulatory Commission or an Agreement State for the reference to the Agreement State;

(5) The substitution of the following Title R313 references for specific 10 CFR references:

(a) Section R313-12-3 for the reference to Sec. 20.1003 of this chapter;

(b) Section R313-12-54 for the reference to 10 CFR 39.17;

(c) Subsection R313-12-55(1) for the reference to 10 CFR 39.91;

(d) Rule R313-15 for references to:

(i) Part 20; and

(ii) Part 20 of this chapter;

(e) Subsection R313-15-901(1) for the reference to Sec. 20.1901(a);

(f) Section R313-15-906 for the reference to Sec. 20.205 of this chapter;

(g) Sections R313-15-1201 through R313-15-1203 for the references to:

(i) Secs. 20.2201-20.2202; and

(ii) Sec. 20.2203;

(h) Rule R313-18 for the reference to part 19;

(i) Section R313-19-30 for the reference to Sec. 150.20 of this chapter;

(j) Section R313-19-50 for the references to:

(i) Sec. 30.50; and

(ii) Part 21 of this chapter;

(k) Section R313-19-71 for the reference to Sec. 30.71;

(l) Section R313-19-100 for the references to:

(i) 10 CFR Part 71; and

(ii) Sec. 71.5 of this chapter; and

(m) Section R313-22-33 for the reference to 10 CFR 30.33;

KEY: radioactive material, well logging, surveys, subsurface tracer studies
Date of Enactment or Last Substantive Amendment: September 14, 2001
Notice of Continuation: December 10, 2003
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

♦ ♦

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-27

Medicaid Certification of Nursing Care Facilities

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32064
FILED: 10/15/2008, 17:55

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to implement Medicaid certification requirements for nursing facilities in accordance with H.B. 366 (2008 General Session). H.B. 366 will not allow, in most cases, any increase in bed capacity for Medicaid-certified nursing facilities. (DAR NOTE: H.B. 366 (2008) is found at Chapter 347, Laws of Utah 2008, and was effective 03/18/2008.)

SUMMARY OF THE RULE OR CHANGE: This change specifies Medicaid certification requirements for nursing care facilities. Facilities will not be allowed to increase bed capacity in most cases.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-18-3 and 26-18-503

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There may be a savings to the state budget because of this rule change. Additional under-utilized nursing facility beds add costs to the system that are reflected in nursing facility reimbursement rates. With this rule, facilities will not be allowed to expand, in most cases, which may mitigate upward pressure on nursing home reimbursement resulting from excess bed capacity. The exact amount cannot be quantified.

❖ LOCAL GOVERNMENTS: Local governments would be minimally affected by this rule. Of the 77 nursing facilities in the state, only 3 are owned by local governments. They would be impacted in the same manner as non-publicly owned facilities.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Nursing care facilities will not be allowed to expand. This could have a negative impact on an individual facility's

revenue if it has the potential to expand beds and attract more clients. However, the number of its occupied beds may increase as overall bed capacity in the system is stabilized. If so, the fiscal impact of the rule would be positive as facility fixed costs are spread over more resident patient days. The exact amount cannot be quantified.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule is beneficial to the nursing facility industry, as a whole, in that it limits additional beds in the system and allows occupancy rates to rise due to less bed availability. As occupancy rises, efficiency increases and costs are spread across an increased number of resident patient days. The exact cost cannot be quantified.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no direct compliance cost for business. Expansion of bed capacity will be limited. Balanced against the current occupancy rate in the industry of below 70%, this rule should have a positive fiscal impact on the industry. David N. Sundwall, MD, Executive Director

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

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

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-27. Medicaid Certification of Nursing Care Facilities.
R414-27-2. Definitions.

"Third party owner" means any one of or combination of the following:

(1) the owner of a building from which a nursing care facility operates;

(2) the owner of land on which a nursing care facility operates;

(3) the owner of a nursing care facility program licensed by the Department pursuant to the Utah Health Facility Licensing Act;

(4) the holder of a Medicaid certification for a nursing care facility;

(5) the lessor of the building from which a nursing care facility operates;

(6) the lessor of the land on which a nursing care facility operates;

(7) the mortgagor of the building from which a nursing care facility operates;

(8) the mortgagor of the land on which a nursing care facility operates;

(9) the management team responsible for executing the operations of a nursing care facility;

(10) a lien security interest holder in the land on which a nursing care facility operates;

(11) a lien security interest in the building from which a nursing care facility operates; and

(12) a lien security interest holder in the nursing facility business operation.

R414-27-[~~2~~]3. Medicaid Certification Requirements.

(1) The director of the Division of Health Care Financing (DHCF) within the Department of Health may authorize Medicaid certification for a nursing care facility that:

(a) is in compliance with 42 CFR Part 483 or has a plan of correction approved by the Department to remedy areas of noncompliance;

(b) is in compliance with the Health Care Facility Licensing and Inspection Act, Title 26, Chapter 21, and the rules applicable to nursing homes made pursuant to that act or has a plan of correction approved by the Department to remedy areas of noncompliance;

(c) has not increased its certified bed capacity by more than 30 percent annually after March 31, 2004, except as authorized in Subsection 26-18-503(5);

(d) is Medicare-certified by the Centers for Medicare & Medicaid Services to provide care for Medicare clients;

([~~d~~]e) since March 18, 2008, has not increased its licensed bed capacity except in conjunction with an increase in certified bed capacity as authorized in Subsection 26-18-503(5) or for which the DHCF Director has approved the increase in the nursing care facility program's certified bed capacity expansion before October 15, 2007; and

([~~e~~]f) since March 18, 2008, has not increased its certified bed capacity except as authorized in Subsection 26-18-503(5).

(2) The "independent analysis" referred to in Subsection 26-18-503(5)(b) must be performed by unrelated certified public accountants in accordance with generally accepted accounting principles.

(3) A nursing care facility is not eligible for Medicaid certification if it expands bed capacity without prior approval from the DHCF Director as authorized in this section.

R414-27-4. Medicaid Certification Subsequent to Change of Ownership.

(1) The owner of a nursing care facility program may transfer ownership to another person. The transferred nursing care facility may become Medicaid certified if:

(a) the nursing care facility is in compliance with Section R414-27-3 at the time of transfer;

(b) the transferee operates the nursing care facility at the same physical location as the previous Medicaid-certified program;

(c) the transferee agrees to pay the Department's litigation costs if any third party asserts a right to operate the transferred Medicaid-certified nursing care facility;

(d) the transferee certifies that bed capacity will not expand through a third party owner with a legitimate claim to operate the transferred Medicaid-certified nursing care facility;

(e) the transferee applies for and takes all necessary steps to become Medicaid-certified within one year of the date the previously certified nursing care facility ceased to provide medical assistance to a Medicaid client;

(2) If a third party is found, by final agency action of the Department after exhaustion of all administrative and judicial appeal rights, to be entitled to operate a certified program at the physical facility, the transferee shall voluntarily comply with Subsection 26-18-503(4)(b). The Department of Health may revoke Medicaid certification if the transferee does not comply with Subsection 26-18-503(4)(b).

(3) the transferee that receives Medicaid certification after taking ownership under the provisions of Subsection R414-27-4(1) does not assume the Medicaid liabilities of the previous nursing care facility program if the transferee is not a third party owner in whole or in part of the previous nursing care facility.

R414-27-5. Medicaid Certification Subsequent to Renovation or Construction of a New Physical Facility.

A nursing care facility operating in a new or renovated facility is eligible for re-certification if the nursing care facility:

(1) was certified at the time of renovation or new construction;

(2) was in compliance with Sections R414-27-3 and R414-27-4 when it ceased providing care to Medicaid clients at the prior location or before beginning renovations;

(3) is in the same county or within a five-mile, paved public road radius of the original facility;

(4) the construction is completed no later than three years after the date the nursing care facility ceased to operate in the original facility; and

(5) notifies DHCF no later than 90 days after the date outlined in Subsection R414-27-5(1)(a) of its intent to retain its Medicaid certification.

KEY: Medicaid
Date of Enactment or Last Substantive Amendment: [~~July 1~~], 2008
Notice of Continuation: January 17, 2008
Authorizing, Implemented or Interpreted Law: 26-1-5; 26-18-3; 26-18-503

♦ ♦

Insurance, Administration
R590-249
Secondary Medical Condition Exclusion

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 32053
FILED: 10/15/2008, 11:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish examples of limitations or exclusions from coverage, including related secondary conditions.

SUMMARY OF THE RULE OR CHANGE: Section R590-249-3 provides instructions to insurers regarding written statements that disclose their policy limitations or exclusions, including secondary medical conditions. Section R590-249-4 provides examples of limitations or exclusions.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-22-613.5

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This rule will have no effect on department or state budgets. It will not create additional revenue or expense. There will be no need to hire additional help to handle the policy form filings that will need to be filed with the department.

❖ LOCAL GOVERNMENTS: Local governments will not be affected by this rule since it deals solely with the relationship between the department and their health insurers.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Insurance agencies will have no fiscal impact as a result of this since insurers will be responsible to change their exclusion and limitation forms to meet the requirements of the law and this rule. The expense would be in reprinting and paper.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Insurers will be responsible to change their current exclusion and limitation disclosure form to meet the requirements of the law and this rule. The expense would be in reprinting and paper. Due to the minimal fiscal impact on insurers insureds should not be impacted by this change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have minimal impact on insurance companies and no impact on small businesses. D. Kent Michie, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-249. Secondary Medical Condition Exclusion.
R590-249-1. Authority.

This rule is promulgated by the insurance commissioner pursuant to Subsection 31A-22-613.5.(3), authorizing the commissioner to adopt a rule to implement disclosure requirements and provide examples of coverage limitations or exclusions, including a secondary medical condition.

R590-249-2. Purpose and Scope.

The purpose of this rule is to establish examples of limitations or exclusions from coverage, including related secondary conditions. The examples provided in R590-249-4 are not all inclusive.

R590-249-3. General Instructions.

The insurer shall provide a clear written statement that discloses the policy limitations and exclusions, including related secondary medical conditions that are set forth in the policy:

(1) upon application; and

(2) when requested by the insured.

R590-249-4. Examples.

The following policy limitation or exclusion examples are not all inclusive:

(1) charges in connection with reconstructive or plastic surgery that may have limited benefits, such as, a chemical peel that does not alleviate a functional impairment;

(2) complications relating to services and supplies for, or in connection with, gastric or intestinal bypass, gastric stapling, or other similar surgical procedure to facilitate weight loss, or for, or in connection with, reversal or revision of such procedures, or any direct complications or consequences thereof;

(3) complications by infection from a cosmetic procedure, except in cases of reconstructive surgery:

(a) when the service is incidental to or follows a surgery resulting from trauma, infection or other diseases of the involved part; or

(b) related to a congenital disease or anomaly of a covered dependent child that has resulted in functional defect;

(4) complications relating to services, supplies or drugs which have not yet been approved by the United States Food and Drug Administration (FDA) or which are used for purposes other than the FDA-approved purpose; or

(5) complications that result from an injury or illness resulting from active participation in illegal activities.

R590-249-5. Penalties.

Any insurer found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to the penalties as provided under Section 31A-2-308.

R590-249-6. Enforcement Date.

The commissioner will begin enforcing this rule July 1, 2009.

R590-249-7. Severability.

If any provision or portion of this rule or the application of it to any person, company or circumstance is for any reason held to be invalid, the remainder of the rule or the applicability of the provision to other persons, companies, or circumstances shall not be affected.

KEY: health insurance
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: 31A-22-613.5

♦ ♦

Labor Commission, Adjudication
R602-2
Adjudication of Workers' Compensation and Occupational Disease Claims

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32055
FILED: 10/15/2008, 13:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purposes of the proposed amendment are to: 1) specify the forms required for adjudicating workers' compensation claims; 2) require that supporting medical documentation accompany applications for hearing, and answers to those applications; 3) provide that only expert medical opinion will be considered in determining whether to refer a workers' compensation claim to a medical panel; 4) remove administrative law judge authority to authorize payment from the Uninsured Employers' Fund (UEF) for medical examinations of indigent injured workers (this authority is being transferred to the Industrial Accidents Division director by amendments to Subsection R612-2-9(F); and 5) remove provisions governing settlement agreements so they can be made applicable to all proceedings before the Adjudication Division as new Rule R602-6. (DAR NOTE: The proposed amendment to Section R612-2-9 is under DAR No. 32058 and the proposed new Rule R602-6 is under DAR No. 32057 both in this issue, November 1, 2008, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendments list and identify the Commission forms that must be used in connection with the adjudication of workers' compensation disputes. Subsections R602-2-1(B) and (C) are amended to clarify that medical documentation must be included with the applications and answers that are filed in workers' compensation proceedings. Section R602-2-2 is amended to add the requirement of conflicting "expert" medical opinion as a prerequisite to appointment of medical panels in workers' compensation proceedings. Subsection R602-2-2(C), which allows administrative law judges to authorize payment by the UEF for certain medical examinations of indigent injured workers, is eliminated so that such authority can be transferred to the Industrial Accidents Division director pursuant to amendments being proposed to Subsection R612-2-9(F). Finally, Section R602-2-5, pertaining to Commission approval of workers' compensation settlement agreements, is removed. The Commission intends to broaden the application of this provision so as to cover settlements in all types of

Commission proceedings and to promulgate these expanded provisions as new Rule R602-6.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 34A-1-301 et seq. and 63G-4-102 et seq.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Labor Commission anticipates no cost or savings to the state budget. The proposed amendments reflect current practice and will not increase or reduce the Commission's costs of administering the workers' compensation and occupational disease programs. With respect to the state's participation in the workers' compensation system as an employer, the amendments' effect is limited to clarifying and explaining existing standards and practices. The amendments will not increase or decrease expenses incurred by the state in complying with workers' compensation and occupational disease requirements.

❖ LOCAL GOVERNMENTS: The Labor Commission anticipates no cost or savings to local governments. The amendments' effect is limited to clarifying and explaining existing standards and practices. The amendments will not increase or decrease expenses incurred by local government in complying with workers' compensation and occupational disease requirements.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The Labor Commission anticipates no cost or savings to small businesses. The amendments' effect is limited to clarifying and explaining existing standards and practices. The amendments will not increase or decrease expenses incurred by small businesses in complying with workers compensation and occupational disease requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The official forms required by the proposed amendments are available from the Commission, either in printed form or on the Internet. Other provisions of the amendments are limited to clarifying existing practices, relocating existing rules, or transferring authority over existing standards from one division to another. Consequently, the amendments will not result in any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendments are intended to assist parties in understanding Commission procedural requirements for adjudicating workers' compensation cases. The amendments are not intended to impose any additional burdens beyond what are already required or are needed for the efficient functioning of the Commission's adjudicative system. The Commission hopes that this stream-lining and clarification will reduce business costs of participating in the adjudicative system, but in any event the Commission does not expect the amendments to have any negative fiscal impact on businesses. Sherrie Hayashi, Commissioner

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

LABOR COMMISSION
ADJUDICATION
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:
Richard M. Lajeunesse at the above address, by phone at 801-536-7928, by FAX at 801-530-6333, or by Internet E-mail at rlajeunesse@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R602. Labor Commission, Adjudication.
R602-2. Adjudication of Workers' Compensation and Occupational Disease Claims.
R602-2-1. Pleadings and Discovery.

A. Definitions.

1. "Commission" means the Labor Commission.

2. "Division" means the Division of Adjudication within the Labor Commission.

3. "Application for Hearing" means Adjudication Form 001 Application for Hearing Industrial Accident Claim, Adjudication Form 026 Application for Hearing Occupational Disease Claim, Adjudication Form 025 Application for Dependent's Benefits and/or Burial Benefits Industrial Accident, Adjudication Form 027 Application for Dependent's Benefits Occupational Disease, or other request for agency action complying with the Utah Administrative Procedures Act Utah Code Section 63G-4-102 et seq. filed by an employer of insurance carrier[~~the request for agency action~~] regarding a workers' compensation claim.

4. "Supporting medical documentation" means Adjudication Form 113[~~a~~] Summary of Medical Record or other medical report or treatment note completed by a physician that indicates the presence or absence of a medical causal connection between benefits sought and the alleged industrial injury or occupational disease.

5. "Authorization to Release Medical Records" is Adjudication Form 308 Authorization to Disclose, Release and Use Protected Health Information[~~a form~~] authorizing the injured workers' medical providers to provide medical records and other medical information to the commission or a party.

6. "Supporting documents" means supporting medical documentation, Adjudication Form 307 Medical Treatment Provider List, Adjudication Form 308 Authorization to Disclose, Release and Use Protected Health Information[~~list of medical providers, Authorization to Release Medical Records~~] and, when applicable, [~~an~~]Adjudication Form 152 Appointment of Counsel [~~Form~~].

7. "Petitioner" means the person or entity who has filed an Application for Hearing.

8. "Respondent" means the person or entity against whom the Application for Hearing was filed.

9. "Discovery motion" includes a motion to compel or a motion for protective order.

B. Application for Hearing.

1. Whenever a claim for compensation benefits is denied by an employer or insurance carrier, the burden rests with the injured worker, authorized representative of a deceased worker's estate, dependent of a deceased worker or medical provider, to initiate agency action by filing an appropriate Application for Hearing with the Division. Applications for hearing shall include an original, [~~notarized Authorization to Release Medical Records~~]Adjudication Form 308 Authorization to Disclose, Release and Use Protected Health Information.

2. An employer, insurance carrier, or any other party with standing under the Workers' Compensation Act may obtain a hearing before the Adjudication Division by filing a request for agency action with the Division complying with the Utah Administrative Procedures Act Utah Code Section 63G-4-102et seq.

3. All Applications for Hearing shall include [~~any available~~]supporting medical documentation of the claim where there is a dispute over medical issues. Applications for Hearing without supporting documentation and a properly completed [~~Authorization to Release Medical Records~~]Adjudication Form 308 Authorization to Disclose, Release and Use Protected Health Information may not be mailed to the employer or insurance carrier for answer until the appropriate documents have been provided. In addition to respondent's answer, a respondent may file a motion to dismiss the Application for Hearing where there is no supporting medical documentation filed to demonstrate medical causation when such is at issue between the parties.

4. When an Application for Hearing with appropriate supporting documentation is filed with the Division, the Division shall forthwith mail to the respondents a copy of the Application for Hearing, supporting documents and Notice of Formal Adjudication and Order for Answer.

5. In cases where the injured worker is represented by an attorney, a completed and signed Adjudication Form 152 Appointment of Counsel form shall be filed with the Application for Hearing or upon retention of the attorney.

C. Answer.

1. The respondent(s) shall have 30 days from the date of mailing of the Order for Answer, to file a written answer to the Application for Hearing.

2. The answer shall admit or deny liability for the claim and shall state the reasons liability is denied. The answer shall state all affirmative defenses with sufficient accuracy and detail that the petitioner and the Division may be fully informed of the nature and substance of the defenses asserted.

3. All answers shall include a summary of benefits which have been paid to date on the claim, designating such payments by category, i.e. medical expenses, temporary total disability, permanent partial disability, etc.

4. When liability is denied based upon medical issues, copies of [~~all available~~]medical reports sufficient to support the denial of liability shall be filed with the answer.

5. If the answer filed by the respondents fails to sufficiently explain the basis of the denial, fails to include [~~available~~]medical reports or records to support the denial, or contains affirmative defenses without sufficient factual detail to support the affirmative defense, the Division may strike the answer filed and order the respondent to file within 20 days, a new answer which conforms with the requirements of this rule.

6. All answers must state whether the respondent is willing to mediate the claim.

7. Petitioners are allowed to timely amend the Application for Hearing, and respondents are allowed to timely amend the answer, as newly discovered information becomes available that would warrant the amendment. The parties shall not amend their pleadings later than 45 days prior to the scheduled hearing without leave of the Administrative Law Judge.

8. Responses and answers to amended pleadings shall be filed within ten days of service of the amended pleading without further order of the Labor Commission.

D. Default.

1. If a respondent fails to file an answer as provided in Subsection C above, the Division may enter a default against the respondent.

2. If default is entered against a respondent, the Division may conduct any further proceedings necessary to take evidence and determine the issues raised by the Application for Hearing without the participation of the party in default pursuant to Section 63G-4-209(4), Utah Code.

3. A default of a respondent shall not be construed to deprive the Employer's Reinsurance Fund or Uninsured Employers' Fund of any appropriate defenses.

4. The defaulted party may file a motion to set aside the default under the procedures set forth in Section 63G-4-209(3), Utah Code. The Adjudication Division shall set aside defaults upon written and signed stipulation of all parties to the action.

. . . . . .

R602-2-2. Guidelines for Utilization of Medical Panel.

Pursuant to Section 34A-2-601, the Commission adopts the following guidelines in determining the necessity of submitting a case to a medical panel:

A. A panel will be utilized by the Administrative Law Judge where one or more significant medical issues may be involved. Generally a significant medical issue must be shown by conflicting medical reports. Significant medical issues are involved when there are:

1. Conflicting expert medical opinions related to causation of the injury or disease;

2. Conflicting expert medical [~~reports~~]opinion of permanent physical impairment which vary more than 5% of the whole person,

3. Conflicting expert medical opinions as to the temporary total cutoff date which vary more than 90 days;

4. Conflicting expert medical opinions related to a claim of permanent total disability, and/or

5. Medical expenses in controversy amounting to more than $10,000.

B. A hearing on objections to the panel report may be scheduled if there is a proffer of conflicting medical testimony showing a need to clarify the medical panel report. Where there is a proffer of new written conflicting medical evidence, the Administrative Law Judge may, in lieu of a hearing, re-submit the new evidence to the panel for consideration and clarification.

[~~C. The Administrative Law Judge may authorize an injured worker to be examined by another physician for the purpose of obtaining a further medical examination or evaluation pertaining to the medical issues involved, and to obtain a report addressing these medical issues in all cases where:~~

~~1. The treating physician has failed or refused to give an impairment rating, and/or~~

~~2. A substantial injustice may occur without such further evaluation.~~

~~D~~]C. Any expenses of the study and report of a medical panel or medical consultant and of their appearance at a hearing, as well as any

expenses for further medical examination or evaluation, as directed by the Administrative Law Judge, shall be paid from the Uninsured Employers' Fund, as directed by Section 34A-2-601.

R602-2-4. Attorney Fees.

A. Pursuant to Section 34A-1-309, the Commission adopts the following rule to regulate and fix reasonable fees for attorneys representing applicants in workers' compensation or occupational illness claims.

1. This rule applies to all fees awarded after July 1, 2007.

2. Fees awarded prior to the effective date of this rule are determined according to the prior version of this rule in effect on the date of the award.

B. Upon written agreement, when an attorney's services are limited to consultation, document preparation, document review, or review of settlement proposals, the attorney may charge the applicant an hourly fee of not more than $125 for time actually spent in providing such services, up to a maximum of four hours.

1. Commission approval is not required for attorneys fees charged under this subsection B. It is the applicant's responsibility to pay attorneys fees permitted by this subsection B.

2. In all other cases involving payment of applicants' attorneys fees which are not covered by this subsection B., the entire amount of such attorneys fees are subject to subsection C. or D. of this rule.

C. Except for legal services compensated under subsection B. of this rule, all legal services provided to applicants shall be compensated on a contingent fee basis.

1. For purposes of this subsection C., the following definitions and limitations apply:

a. The term "benefits" includes only death or disability compensation and interest accrued thereon.

b. Benefits are "generated" when paid as a result of legal services rendered after [~~an~~]Adjudication Form 152 Appointment of Counsel form is signed by the applicant. A copy of this form must be filed with the Commission by the applicant's attorney.

c. In no case shall an attorney collect fees calculated on more than the first 312 weeks of any and all combinations of workers' compensation benefits.

2. Fees and costs authorized by this subsection shall be deducted from the applicant's benefits and paid directly to the attorney on order of the Commission. A retainer in advance of a Commission approved fee is not allowed.

3. Attorney fees for benefits generated by the attorney's services shall be computed as follows:

a. For all legal services rendered through final Commission action, the fee shall be 25% of weekly benefits generated for the first $25,000, plus 20% of the weekly benefits generated in excess of $25,000 but not exceeding $50,000, plus 10% of the weekly benefits generated in excess of $50,000, to a maximum of $15,250.

b. For legal services rendered in prosecuting or defending an appeal before the Utah Court of Appeals, an attorney's fee shall be awarded amounting to 30% of the benefits in dispute before the Court of Appeals. This amount shall be added to any attorney's fee awarded under subsection C.3.a. for benefits not in dispute before the Court of Appeals. The total amount of fees awarded under subsection C.3.a. and this subsection C.3.b. shall not exceed $22,000;

c. For legal services rendered in prosecuting or defending an appeal before the Utah Supreme Court, an attorney's fee shall be awarded amounting to 35% of the benefits in dispute before the Supreme Court. This amount shall be added to any attorney's fee awarded under subsection C.3.a. and subsection C.3.b. for benefits not in dispute before the Supreme Court. The total amount of fees awarded under subsection C.3.a, subsection C.3.b. and this subsection C.3.c shall not exceed $27,000.

D. The following expenses, fees and costs shall be presumed to be reasonable and necessary and therefore reimbursable in a workers compensation claim:

1. Medical records and opinion costs;
2. Deposition transcription costs;
3. Vocational and Medical Expert Witness fees;
4. Hearing transcription costs;
5. Appellate filing fees; and
6. Appellate briefing expenses.

F. Other reasonable expenses, fees and costs may be awarded as reimbursable as the Commission may in its discretion decides in a particular workers compensation claim.

E. In "medical only" cases in which awards of attorneys' fees are authorized by Subsection 34A-1-309(4), the amount of such fees and costs shall be computed according to the provisions of subsection C and D.

[~~R602-2-5. Settlement Agreements.~~

~~A. Statutory authority:~~

~~Section 34A-2-420 requires the Commission to review all agreements for the settlement or commutation of claims for workers' compensation or occupational disease benefits and grants the Commission discretion to approve such agreements. The Commission's authority under Section 34A-2-420 applies to all claims arising under the Utah Workers' Compensation Act or Occupational Disease Act, regardless of the date of accident or occupational disease. This rule sets forth the requirements for Commission approval of such agreements.~~

~~B. General Considerations:~~

~~Settlement agreements may be appropriate in claims of disputed validity or when the parties' interests are served by payment of benefits in a manner different than otherwise prescribed by the workers' compensation laws. However, settlement agreements must also fulfill the underlying purposes of the workers' compensation laws. Once approved by the Commission, settlement agreements are permanently binding on the parties. The Commission will not approve any proposed settlement that is manifestly unjust.~~

~~C. Procedure:~~

~~1. Parties interested in a present or potential workers' compensation claim, whether or not an application for hearing has been filed, may submit their settlement agreement to the Commission for review and approval. The Commission may delegate its authority to review and approve such agreements.~~

~~2. Each settlement agreement shall be in writing, executed by each party and such party's attorney, if any, and shall include a proposed order for Commission approval of the agreement.~~

~~3. Each settlement agreement shall set forth the nature of the claim being settled and what claims are in dispute, if any.~~

~~4. Each settlement agreement shall contain a statement that each party understands that the agreement is permanent, binding and constitutes full and final settlement of any right the claimant may otherwise have to future benefits, including medical benefits. The Commission may establish an approved form for complying with the foregoing disclosure requirement.~~

~~5. Attorneys' fees shall be allowed as provided by Rule R602-2-4. Each settlement agreement shall describe the amount to be paid to claimant's counsel as attorney's fees and costs, the manner in which such amounts are computed and the method of payment thereof.~~

~~6. The settlement agreement may provide for payment of benefits through insurance contract or by other third parties if the Commission determines a) such payment provisions are secure and b) such payment provisions do not relieve the parties of their underlying liability for payments required by the agreement.~~

~~7. Upon receipt of a proposed settlement agreement meeting the requirements of this rule, the Commission shall review such proposed agreement:~~

~~a. As needed, the Commission may contact the parties and others to obtain further information about the proposed settlement;~~

~~b. If the Commission determines that a proposed settlement agreement conforms with this rule, the Commission shall approve such agreement and notify the parties in writing.~~

~~c. If the Commission determines that a proposed settlement agreement does not comply with this rule, the Commission shall notify the parties in writing of its reasons for rejecting the proposed agreement.~~

~~d. The Commission shall retain a record of its action on all settlement agreements submitted to it for approval.~~

]**KEY: workers' compensation, administrative procedures, hearings, settlements**
Date of Enactment or Last Substantive Amendment: [~~February 7~~], 2008
Notice of Continuation: August 15, 2007
Authorizing, and Implemented or Interpreted Law: 34A-1-301 et seq.; 63G-4-102 et seq.

♦ ♦

Labor Commission, Adjudication

R602-5

Procedures for Resolving Disputes Regarding "Cooperation" and "Diligent Pursuit" Under Subsection 34A-2-413(6)(e)(iii) and Subsection 34A-2-413(9) Consistent with Utah Administrative Code Subsection R612-1-10(D)(4)

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 32056
FILED: 10/15/2008, 13:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule establishes and clarifies procedures for expedited adjudication of disputes regarding cooperation and diligence with respect to reemployment and rehabilitation under the Workers' Compensation Act's permanent total disability provisions.

SUMMARY OF THE RULE OR CHANGE: This rule explains that its provisions are applicable to disputes arising from the parties' efforts to implement rehabilitation and reemployment plans pursuant to the permanent total disability provisions of Section 34A-2-413. The rule encourages the parties to attempt voluntary mediation of their disputes; and defines terms used in the rule and explains the procedures, forms and time requirements for bringing their disputes before the Commission's administrative law judges.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 34A-1-104(1), 34-A-2-413(6)(e)(iii), and 34A-2-413(9)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Commission anticipates no cost or savings to the state budget. This rule applies to a small category of workers' compensation proceedings that deal with implementation of reemployment/rehabilitation plans under the Workers' Compensation Act's provisions for permanent total disability. The rule clarifies existing practice and does not impose any additional obligations on the state, either in its capacity as an employer or with respect to its administration of the workers' compensation system.

❖ LOCAL GOVERNMENTS: The Commission anticipates no cost or savings to the local government. This rule applies to a small category of workers' compensation proceedings that deal with implementation of reemployment/rehabilitation plans under the Workers' Compensation Act's provisions for permanent total disability. The rule clarifies existing practice and does not impose any additional obligations on local governments in their capacity as employers.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The Commission anticipates no cost or savings to the small businesses. This rule applies to a small category of workers' compensation proceedings that deal with implementation of reemployment/rehabilitation plans under the Workers' Compensation Act's provisions for permanent total disability. The rule clarifies existing practice and do not impose any additional obligations on small businesses in their capacity as employers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule defines procedures for adjudication of reemployment and rehabilitation disputes. It does not impose additional obligations on the parties beyond what are customarily engaged in such adjudicative proceedings and is not expected to result in any additional compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: By providing simple, expedited procedures for resolving the conflicts that can arise from efforts to reemploy or rehabilitate injured workers who would otherwise be permanently and totally disabled, the Commission expects this rule to reduce business litigation costs. While the scope of the anticipated reduction in costs is small due the small number of this type of conflict, the reduction will nevertheless have a corresponding positive fiscal impact on businesses and their insurance companies. Sherrie Hayashi, Commissioner

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

LABOR COMMISSION
ADJUDICATION
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:

Richard M. Lajeunesse at the above address, by phone at 801-536-7928, by FAX at 801-530-6333, or by Internet E-mail at rlajeunesse@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R602. Labor Commission, Adjudication.

R602-5. Procedures for Resolving Disputes Regarding "Cooperation" and "Diligent Pursuit" Under Subsection 34A-2-413(6)(e)(iii) and Subsection 34A-2-413(9) Consistent with Utah Administrative Code Subsection R612-1-10(D)(4).

R602-5-1. Purpose, Authority and Scope.

Section 34A-2-413(6)(e)(iii) states an administrative law judge shall make a final decision of permanent total disability based on an employer's failure to diligently pursue an approved reemployment plan. Section 34A-2-413(9) states that an administrative law judge shall dismiss a claim for benefits based on an employee's failure to fully cooperate with an approved reemployment plan. Under authority of section 34A-1-104, the Commission establishes these rules to govern hearings under this section. The provisions of R602-5 pertaining to applications for hearing pursuant to Section 34A-2-413(6)(e)(iii) and Section 34A-2-413(9) supersede the Administrative Rules contained in R602-2, R602-3, and R602-4 as to any actions brought pursuant to Section 34A-2-413(6)(e)(iii) and Section 34A-2-413(9).

R602-5-2. Mediation in Section 34A-2-413(6)(e)(iii) Cases.

Prior to filing an application for a final determination of permanent total disability based on an employer's failure to diligently pursue the reemployment plan pursuant to Section 34A-2-413(6)(e)(iii) the parties are encouraged to request assistance from the Mediation Unit of the Commission's Industrial Accidents Division.

R602-5-3. Pleadings and Discovery in Section 34A-2-413(6)(e)(iii) Cases.

A. Definitions.

1. "Application for Hearing" means the Application for Hearing for Final Determination of Permanent Total Disability form (Adjudication Form 502), all supporting documents, and proof of service which together constitute the request for agency action for final determination of permanent total disability based on an employer's failure to diligently pursue the reemployment plan pursuant to Section 34A-2-413(6)(e)(iii).

2. "Supporting medical documentation" means any medical report or treatment note completed by a medical provider or physician that references, describes or otherwise sets forth the employee's medical or functional capacities, restrictions and/or abilities.

3. "Supporting documents" means supporting medical documentation, Persons with Knowledge List (Adjudication Form 403), an outline of the specific instances of lack of diligence as required by R612-1-10.D.4. and all documents in any way related to reasons identified for the requested final determination of permanent total disability whether tending to prove or disprove the same.

4. "Proof of Service" means any of the following: 1) the respondent(s)'s signed and dated acceptance of service of the Application and all supporting documents; 2) a certificate of service of the Application and all supporting documents signed by the employee and accompanied by a return receipt signed by the respondent(s); or 3) a return of service showing personal service of the Application and all supporting documents on the respondent(s) according to Utah Rule of Civil Procedure 4(d)(1).

5. "Persons with Knowledge List" (Adjudication Form 403) means a party's list of all persons who have material knowledge regarding the employer's alleged failure to diligently pursue the reemployment plan pursuant to Section 34A-2-413(6)(e)(iii). The list must specify the full name of the person, a summary of the knowledge possessed by the person, and a statement whether the employee will produce the person as a witness at hearing.

6. "Petitioner" means the petitioner in the original case determining permanent total disability.

7. "Respondent" means the respondent(s) in the original case determining permanent total disability.

B. Application for Hearing.

1. Whenever a final determination of permanent total disability is requested by petitioner pursuant to Section 34A-2-413(6)(e)(iii), the burden rests with the petitioner to initiate agency action by filing a Application for Hearing with the Division.

2. An Application for Hearing is not deemed filed pursuant to Section 34A-2-413(6)(e)(iii) until the petitioner files with the Division a completed Application for Hearing (Adjudication Form 502) together with all supporting documents and proof of service.

C. Discovery.

1. At least 15 days prior to a hearing on an Application, each party shall mail or otherwise serve on the opposing party a list of all witnesses that party will produce at the hearing. Because it is presumed that the employee will appear at the hearing, the employee is not required to list himself or herself on the list. The respondent will also mail to or otherwise serve on the employee a copy of all exhibits the respondent intends to submit at the hearing.

2. Testimony of the witnesses and exhibits not disclosed as required by this Rule shall not be admitted into evidence at the hearing. A party's failure to subpoena or otherwise produce an individual previously identified by that party as an intended witness may give rise to an inference that the individual's testimony would have been adverse to the party failing to produce the witness.

3. Other than disclosures required by this rule and voluntary exchanges of information, the parties may not engage in any other discovery procedures.

4. Subpoenas may be used only to compel attendance of witnesses at hearing, and not for obtaining documents or compelling attendance at depositions. All subpoenas shall be signed by an administrative law judge.

D. Defaults and Motions.

Defaults in proceedings under Section 34A-2-413(6)(e)(iii) and as set forth in R612-1-10.D.4. shall only be ordered at the time of hearing based on nonattendance of a party at the hearing. Motions will only be considered at the time of hearing.

R602-5-4. Hearings in Section 34A-2-413(6)(e)(iii) Cases.

A. Scheduling and Notice.

A hearing on an Application for Hearing filed pursuant to Section 34A-2-413(6)(e)(iii) and as set forth in R612-1-10.D.4. will be set within 30 days of the date the Application for Hearing is filed with the Division. The Division will send notice of hearings by regular mail to the addresses of the parties as set forth on the Application. A party must immediately notify the Division of any change or correction of the addresses listed on the Application. The Division will also mail notice to the address of any party's attorney as disclosed on the Application or by an Appearance of Counsel filed with the Division. Notice by the Division to a party's attorney is considered notice to the party itself.

B. Hearings.

Each hearing pursuant to Section 34A-2-413(6)(e)(iii) and as set forth in R612-1-10.D4. shall be conducted by an administrative law judge as a formal evidentiary hearing. The evidentiary record shall be deemed closed at the conclusion of the hearing, and no additional evidence will be accepted thereafter. After hearing, the administrative law judge shall issue a decision within 45 days from the date the Application was filed.

R602-5-5. Mediation in Section 34A-2-413(9) Cases.

Prior to filing an application for hearing for dismissal of claim for benefits pursuant to Section 34A-2-413(9) the parties are encouraged to request assistance from the Mediation Unit of the Commission's Industrial Accidents Division.

R602-5-6. Pleadings and Discovery in Section 34A-2-413(9) Cases.

A. Definitions.

1. "Application for Hearing" means the Application for Hearing for Termination or Reduction of Compensation form (Adjudication form 602), with all supporting documents and proof of service which together constitute the request for agency action regarding termination or reduction of benefits pursuant to Section 34A-2-413(9).

2. "Supporting medical documentation" means any medical report or treatment note completed by a medical provider or physician that references, describes or otherwise sets forth the employee's medical or functional capacities, restrictions and/or abilities.

3. "Support documents" means supporting medical documentation, Persons with Knowledge List (Adjudication Form 403), an outline of the specific instances of non-cooperation as required by R612-1-10.D.4. and all documents in any way related to reasons identified for the requested termination whether tending to prove or disprove the same and all documents describing the employee's work duties during his or her employment with respondent employer.

4. "Proof of Service" means any of the following: 1) the employee's signed and dated acceptance of service of the Application and all supporting documents; 2) a certificate of service of the Application and all supporting documents signed by the respondent's counsel and accompanied by a return receipt signed by the employee; or 3) a return of service showing personal service of the Application and all supporting documents on the employee according to Utah Rule of Civil Procedure 4(d)(1).

5. "Persons with Knowledge List" (Adjudication Form 403) means a list of any person who may have knowledge of the events and/or circumstances relating to the reasons for the request to terminate or reduce compensation whether tending to prove or disprove the reason(s) set forth in the Application for Hearing. The Persons with Knowledge list must specify the full name, address and phone number of the person if know, a short statement of the knowledge believed possessed by the person and a statement as to whether or not the respondent will actually produce the person with knowledge as a witness at the evidentiary hearing.

6. "Petitioner" means the petitioner in the original case determining permanent total disability.

7. "Respondent" means the respondent(s) in the original case determining permanent total disability.

B. Application for Hearing.

1. Respondent may request a dismissal of claim for permanent total disability compensation pursuant to Section 34A-2-413(9) by filing an Application with the Commission's Adjudication Division.

2. An Application is not deemed filed with the Division until the respondent submits a completed Application with all required documents.

C. Discovery.

1. At least 15 days prior to a hearing on an Application , each party shall mail or otherwise serve on the opposing party a list of all witnesses that party will produce at the hearing. Because it is presumed that the employee will appear at the hearing, the employee is not required to list himself or herself on the list. The employee will also mail to or otherwise serve on the employer a copy of all exhibits the employee intends to submit at the hearing.

2. Testimony of witnesses and exhibits not disclosed as required by this Rule shall not be admitted into evidence at the hearing. A party's failure to subpoena or otherwise produce an individual previously identified by that party as an intended witness may give rise to an inference that the individual's testimony would have been adverse to the party failing to produce the witness.

3. Other than disclosures required by this rule and voluntary exchanges of information, the parties may not engage in any other discovery procedures.

4. Subpoenas may be used only to compel attendance of witnesses at hearing, and not for obtaining documents or compelling attendance at depositions. All subpoenas shall be signed by an administrative law judge.

D. Defaults and Motions.

Defaults shall only be issued at the time of hearing based on nonattendance of a party. Motions will only be considered at the time of hearing.

R602-5-7. Hearings in Section 34A-2-413(9) Cases.

A. Scheduling and Notice.

A hearing will be held within 30 days after an Application is filed with the Commission's Adjudication Division. The Division will send notice of hearing by regular mail to the addresses of parties as set forth on the Application. A party must immediately notify the Division of any change or correction of the addresses listed on the Application. The Division will also mail notice to the address of any party's attorney as disclosed on the Application or by an Appearance of Counsel filed with the Division. Notice by the Division to a party's attorney is considered notice to the party itself.

B. Hearings.

Each hearing pursuant to Section 34A-2-413(9) shall be conducted by an administrative law judge as a formal evidentiary hearing. The evidentiary record shall be deemed closed at the conclusion of the hearing, and no additional evidence will be accepted

thereafter. After hearing, the administrative law judge shall issue a decision within 45 days from the date the Application was filed.

R602-5-8. Motions for Review.

Commission review of an administrative law judge's decision is subject to the provisions of section 63G-4-301, section 34A-1-303, and R602-2.1(M).

KEY: workers' compensation, administrative procedures, hearings
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: 34A-1-104(1) et seq.; 34A-2-413(6)(e)(iii); and 34A-2-413(9)

♦ ♦

Labor Commission, Adjudication
R602-6
Procedures Applicable for Approval of Settlement Agreements in Workers' Compensation

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 32057
FILED: 10/15/2008, 13:13

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to relocate the Commission's existing rule regarding procedures for approval of workers' compensation settlements.

SUMMARY OF THE RULE OR CHANGE: Under a concurrent rule filing, the Commission has removed these provisions from Rule R602-2. This rule will reestablish the same provisions as Rule R602-6. Consequently, the proposed rule will carry forward existing standards for presenting settlement agreements to the Commission, as well as the Commission's standards for approving such agreements. (DAR NOTE: The proposed amendment to Rule R602-2 is under DAR No. 32055 in this issue, November 1, 2008, of the Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-2-420

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Because this rule does not change current practice or standards, the Commission anticipates no costs or savings to the state budget.

❖ LOCAL GOVERNMENTS: Because this rule does not change current practice or standards, the Commission anticipates no costs or savings to local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Because this rule does not change current practice or standards, the Commission anticipates no costs or savings to small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule does not impose any new procedural or substantive obligations on the parties involved in workers' compensation settlements. For that reason, the rule will not result in any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is, essentially, a house-keeping measure that is part of a reorganization and renumbering of some of the Commission's existing rules. Because it does not change current practice and does not impose any new or additional obligations, it will have no fiscal impact on businesses. Sherrie Hayashi, Commissioner

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

LABOR COMMISSION
ADJUDICATION
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:
Richard M. Lajeunesse at the above address, by phone at 801-536-7928, by FAX at 801-530-6333, or by Internet E-mail at rlajeunesse@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R602. Labor Commission, Adjudication.
R602-6. Procedures Applicable for Approval of Settlement Agreements in Workers' Compensation.
R602-6-1. Statutory Authority.

Section 34A-2-420 requires the Commission to review all agreements for the settlement or commutation of claims for workers' compensation or occupational disease benefits and grants the Commission discretion to approve such agreements. The Commission's authority under Section 34A-2-420 applies to all claims arising under the Utah Workers' Compensation Act or Occupational Disease Act, regardless of the date of accident or occupational disease. This rule sets forth the requirements for Commission approval of such agreements.

R602-6-2. Applicability of Rule.

This Rule applies to settlements of all claims under the Workers' Compensation Act.

R602-6-3. General Considerations.

Settlement agreements may be appropriate in claims of disputed validity or when the parties' interests are served by payment of benefits in a manner different than otherwise prescribed by the workers' compensation laws. However, settlement agreements must also fulfill

the underlying purposes of the workers' compensation laws. Once approved by the Commission, settlement agreements are permanently binding on the parties. The Commission will not approve any proposed settlement that is manifestly unjust.

R602-6-4. Procedure.

A. Parties interested in a present or potential workers' compensation claim, whether or not an application for hearing has been filed, may submit their settlement agreement to the Commission for review and approval. The Commission may delegate its authority to review and approve such agreements.

B. Each settlement agreement shall be in writing, executed by each party and such party's attorney, if any, and shall include a proposed order for Commission approval of the agreement.

C. Each settlement agreement shall set forth the nature of the claim being settled and what claims are in dispute, if any.

D. Each settlement agreement shall contain a statement that each party understands that the agreement is permanent, binding and constitutes full and final settlement of any right the claimant may otherwise have to future benefits, including medical benefits. The Commission may establish an approved form for complying with the foregoing disclosure requirement.

E. Attorney's fees shall be allowed as provided by Rule R602-2-4. Each settlement agreement shall describe the amount to be paid to claimant's counsel as attorney's fees and costs, the manner in which such amounts are computed and the method of payment thereof.

F. The settlement agreement may provide for payment of benefits through insurance contract or by other third parties if the Commission determines: a) such payment provisions are secure, and b) such payment provisions do not relieve the parties of their underlying liability for payments required by the agreement.

G. Upon receipt of a proposed settlement agreement meeting the requirements of this rule, the Commission shall review such proposed agreement.

H. As needed, the Commission may contact the parties and others to obtain further information about the proposed settlement.

I. If the Commission determines that a proposed settlement agreement conforms with this rule, the Commission shall approve such agreement and notify the parties in writing.

J. If the Commission determines that a proposed settlement agreement does not comply with this rule, the Commission shall notify the parties in writing of its reasons for rejecting the proposed agreement.

K. The Commission shall retain a record of its action on all settlement agreements submitted to it for approval.

KEY: workers' compensation, administrative procedures, hearings, settlements
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: 34A-2-420

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Labor Commission, Industrial Accidents
R612-2-9
Changes of Doctors and Hospitals

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32058
FILED: 10/15/2008, 13:13

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed rule, in conjunction with a corresponding amendment to Rule R602-2, transfers from the Commission's Adjudication Division to its Industrial Accidents Division the responsibility to authorize the Uninsured Employers' Fund (UEF) to pay for medical evaluations of indigent injured workers. (DAR NOTE: The proposed amendment to Rule R602-2 is under DAR No. 32055 in this issue, November 1, 2008, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The amendment amends Subsection R612-2-9(F) to authorize the Industrial Accidents Division director to approve, in appropriate cases, payment for necessary medical examinations of indigent injured workers by the UEF. The amendment also renumbers the currently existing Subsection R612-2-9(F) as (G).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 34A-2-101 et seq., 34A-3-101 et seq., and 34A-1-104

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The proposed amendment merely transfers authority to approve payments for certain medical examinations from the Adjudication Division to the Industrial Accidents Division. This change will not result in any costs or savings to the state budget, either in its capacity as an employer or with respect to administering the workers' compensation system.

❖ LOCAL GOVERNMENTS: The proposed amendment merely transfers authority to approve payments for certain medical examinations from the Adjudication Division to the Industrial Accidents Division. This change will not result in any costs or savings to local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The proposed amendment merely transfers authority to approve payments for certain medical examinations from the Adjudication Division to the Industrial Accidents Division. This change will not result in any costs or savings to small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment merely transfers authority to approve payments for certain medical examinations from the Adjudication Division to the Industrial Accidents Division. This change will not result in any compliance costs for businesses, insurance carriers or injured workers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment is intended to rationalize the Labor Commission's internal lines of authority for approving payments from the UEF for certain types of medical examinations for indigent injured workers. It will not have any impact, fiscal or otherwise, on businesses. Sherrie Hayashi, Commissioner

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

LABOR COMMISSION
INDUSTRIAL ACCIDENTS
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Larry Bunkall at the above address, by phone at 801-530-6988, by FAX at 801-530-6844, or by Internet E-mail at lbunkall@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R612. Labor Commission, Industrial Accidents.
R612-2. Workers' Compensation Rules-Health Care Providers.
R612-2-9. Changes of Doctors and Hospitals.

A. It shall be the responsibility of the insurance carrier or self-insured employer to notify each claimant of the change of doctor rules. Those rules are as follows:

1. If a company doctor, designated facility or PPO is named, the employee must first treat with that designated provider. The insurance carrier or self-insured employer shall be responsible for payment for the initial visit, less any health insurance copays and subject to any health insurance reimbursement, if the employee was directed to and treated by the employer's or insurance carrier's designated provider, and liability for the claim is denied and if the treating physician provided treatment in good faith and provided the insurance carrier or self-insured employer a report necessary to make a determination of liability. Diagnostic studies beyond plain x-rays would need prior approval unless the claimed industrial injury or occupational illness required emergency diagnosis and treatment.

2. The employee may make one change of doctor without requesting the permission of the carrier, so long as the carrier is promptly notified of the change by the employee.

(a) Physician referrals for treatment or consultation shall not be considered a change of doctor.

(b) Changes from emergency room facilities to private physicians, unless the emergency room is named as the "company doctor", shall not be considered a change of doctor. However, once private physician care has begun, emergency room visits are prohibited except in cases of:

(i) Private physician referral, or

(ii) Threat to life.

3. Regardless of prior changes, a change of doctor shall be automatically approved if the treating physician fails or refuses to rate permanent partial impairment.

B. Any changes beyond those listed above made without the permission of the carrier/self-insurer may be at the employee's own expense if:

1. The employee has received notification of rules, or

2. A denial of request is made.

C. An injured employee who knowingly continues care after denial of liability by the carrier may be individually responsible for payment. It shall be the burden of the carrier to prove that the patient was aware of the denial.

D. It shall be the responsibility of the employee to make the proper filings with the division when changing locale and doctor. Those forms can be obtained from the division.

E. Except in special cases where simultaneous attendance by two or more medical care practitioners has been approved by the carrier/employer or the division, or specialized services are being provided the employee by another physician under the supervision and/or by the direct referral of the treating physician, the injured employee may be attended by only one practitioner and fees will not be paid to two practitioners for similar care during the same period of time.

F. The Director of the Division of Industrial Accidents may authorize an injured worker to be examined by another physician for the purpose of obtaining a further medical examination or evaluation pertaining to the medical issues involved, and to obtain a report addressing these medical issues in all cases where:

1. The treating physician has failed or refused to give an impairment rating, and/or

2. A substantial injustice may occur without such further evaluation.

[~~F.~~]G. The Commission has jurisdiction to decide liability for medical care allegedly related to an industrial accident.

KEY: workers' compensation, fees, medical practitioner
Date of Enactment or Last Substantive Amendment: [~~July 1,~~]2008
Notice of Continuation: April 28, 2008
Authorizing, and Implemented or Interpreted Law: 34A-2-101 et seq.; 34A-3-101 et seq.; 34A-1-104

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Labor Commission, Industrial Accidents
R612-4-2
Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32054
FILED: 10/15/2008, 13:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to establish the premium assessment rates for 2009 to fund the Employers' Reinsurance Fund (ERF), the Uninsured Employers' Fund (UEF), and the Workplace Safety Account.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment lowers that portion of the workers' compensation insurance premium assessment used to fund the ERF from 7.25% for 2008 to 5% for 2009. The amendment leaves the premium

assessment rate used to fund the UEF unchanged for 2009, at 0.25%.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 59-9-101(2) and Sections 59-9-101.3 and 34A-2-202

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: In its capacity as an employer, the state is required to purchase workers' compensation insurance for its employees. This reduction in the ERF assessment rate will reduce the cost of such insurance by approximately 2% for 2009.

❖ LOCAL GOVERNMENTS: In their capacity as employers, local governments are required to provide workers' compensation coverage for their employees. This reduction in the ERF assessment rate will reduce the cost of such coverage by approximately 2% for 2009.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small businesses are required to provide workers' compensation coverage for their employees. This reduction in the ERF assessment rate will reduce the cost of such coverage by approximately 2% for 2009.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only effect of the proposed reduction in the ERF assessment rate will be to reduce workers' compensation coverage costs. There will be no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: By reducing the ERF premium assessment rate, businesses will enjoy a reduction in workers' compensation coverage costs. This reduction in one component of business costs will have a positive fiscal impact on businesses. The aggregate savings to all employers in Utah is estimated to exceed $10,000,000. Sherrie Hayashi, Commissioner

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

LABOR COMMISSION
INDUSTRIAL ACCIDENTS
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Larry Bunkall at the above address, by phone at 801-530-6988, by FAX at 801-530-6844, or by Internet E-mail at lbunkall@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2009

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R612. Labor Commission, Industrial Accidents.
R612-4. Premium Rates.
R612-4-2. Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund.

A. Pursuant to Section 59-9-101(2), Section 59-9-101.3 and 34A-2-202 the workers' compensation premium rates effective January 1, 200[~~8~~]9, as established by the Labor Commission, shall be:

1. 0.25% for the Uninsured Employers' Fund;
2. [~~7.25~~]5.00% for the Employers' Reinsurance Fund;
3. 0.25% for the workplace safety account.

B. The premium rates are a percentage of the total workers' compensation insurance premium income as detailed in Section 59-9-101(2)(a).

KEY: workers' compensation, rates
Date of Enactment or Last Substantive Amendment: [~~January 1, 2008~~]2009
Notice of Continuation: January 12, 2006
Authorizing, and Implemented or Interpreted Law: 59-9-101(2)

Natural Resources; Forestry, Fire and State Lands
R652-5-200
Payments

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32060
FILED: 10/15/2008, 13:34

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The existing rule conflicts with the governor's executive order (2008/0006) which initiates a four-day work week. The existing rule also conflicts with the legislative approval for a fee change for returned checks.

SUMMARY OF THE RULE OR CHANGE: The rule amendment clarifies that payment is considered timely when the due date falls on a regular non-workday or a legal holiday and the payment is received on the next business day. The proposed rule amendment also changes wording so that a returned check charge is consistent with the approved fee schedule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 65A-1-4(2)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This rule amendment has no anticipated impact to the state budget. The Division has not received any payments on any Friday that affected a obligee's timeliness to date. There have also been no returned checks charges for three years. If there is an impact to the state budget, it will be minimal.

❖ LOCAL GOVERNMENTS: There should be no impact to local government. Those entities that make payments to the

Division, still will do so in the same fashion as prior to the rule amendment.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There should be no impact to small businesses. Those entities that make payments to the Division, still will do so in the same fashion as prior to the rule amendment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance cost for affected persons will remain unchanged. The payments made to the Division will remain the same, the returned check charge will still be linked to Division policy as approved by the legislature.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule change merely affects the definition of timeliness and does not affect small businesses and the way they make payments to the Division. Michael Styler, Executive Director

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

NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
1594 W NORTH TEMPLE
SUITE 3520
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jennifer Wiglama at the above address, by phone at 801-538-5495, by FAX at 801-533-4111, or by Internet E-mail at jenniferwiglama@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: Richard J. Buehler, Director

R652. Natural Resources; Forestry, Fire and State Lands.
R652-5. Payments, Royalties, Audits, and Reinstatements.
R652-5-200. Payments.

Payments include rentals, royalties or any other financial obligation owed under the terms of a lease, permit or any other agreement.

1. As a matter of convenience, the division allows parties other than the obligee to remit payments to the state on the obligee's behalf; however, this practice in no way relieves the obligee of any statutory or contractual obligations concerning the proper and timely payments or the proper and timely filing of reports. For practical reasons, the division often makes direct requests for reports and other records from parties other than the obligees. Payors should be aware that their actions subject leases to cancellation or subject delinquent royalties to interest charges. It is, therefore, in the best interest of all parties to cooperate in responsibly discharging their obligations to each other and to the state.

2. The obligee bears final responsibility for payments. In order to meet payment obligations of a lease, permit, or other financial contract with the division, payments must be received as defined in subsection 4 of this rule by the appropriate due dates and must be accompanied by the appropriate report.

3. When a change of payor(s) on a property is to occur, the most recent payor of record shall notify the division by letter prior to the change. This shall not be construed, however, to relieve the obligee of the ultimate responsibility.

4. Payments will be considered received if it is either delivered to the division, or if the postmark stamped on the envelope or other appropriate wrapper containing it, is dated on or before the due date. If the post office cancellation mark is illegible, erroneous, or omitted, the payment will be considered timely if the sender can establish by competent evidence that the payment was deposited in the United States mail on or before the date for filing or paying. If the due date or cancellation date falls upon a [~~Saturday, Sunday,~~]regular non-workday or legal holiday, the payment shall be considered timely if received as defined herein by the next business day.

5. Payments will be enforced even though a division order is incomplete or because of other irregularities.

6. A return check fee, in accordance with the Division fee schedule will be charged on all checks returned by the bank.[~~Fifteen dollars will be charged on all checks returned by the bank.~~]

7. Any financial obligation not received by its contractual due date will initiate a written cancellation notice by certified mail, return receipt requested. The cancellation date for any lease/permit or other contractual agreement unless otherwise specified in this rule, is defined as 30 days after the postmark date stamped on Post Office Form 3800, Receipt for Certified Mail. In the event payment is not received by the division on or before the cancellation date, the lease, permit or other contractual agreement will be subject to cancellation, forfeiture or termination without further notice.

A default in the payment of any installment of principal or interest due under the terms of any land purchase agreement not received by the division more than 30 days after the due date shall initiate a certified billing, return receipt requested. If all sums then due and payable are not received within 90 days after the mailing of the certified notice on Post Office Form 3800, the division may elect any of the remedies as outlined in R652-80-600(5). If the cancellation date falls on a weekend or holiday, payment will be accepted the next business day until 5 p.m.

8. A late penalty of 6% or $10, whichever is greater, shall be charged after failure to pay any financial obligation, excluding royalties as provided in R652-5-300(2), within the time limit under which such payment is due.

9. Rental payments received after the due date which do not include a late fee will be returned to the lessee by certified mail, return receipt requested. A check will only be accepted for the full amount due.

KEY: administrative procedures
Date of Enactment or Last Substantive Amendment: [~~1994~~]2008
Notice of Continuation: April 2, 2007
Authorizing, and Implemented or Interpreted Law: 65A-1-4(2)

♦ ♦

Natural Resources; Forestry, Fire and State Lands
R652-20-1600
Posting Dates/Simultaneous Filing

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32062
FILED: 10/15/2008, 13:57

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change clarifies the number of days for notice of simultaneous filings for mineral lands being auctioned.

SUMMARY OF THE RULE OR CHANGE: The amendment changes the term "working days" to "business days" to avoid confusion for those businesses that are not on the state's four ten-hour day initiative for workdays.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 65A-6-2 and Subsection 65A-6-4(3)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: The rule amendment has no impact to the state budget. The time period for submitting a bid on mineral lease lands remains the same.
❖ LOCAL GOVERNMENTS: Local governments do not bid on mineral lease lands and therefore, the amendment has no impact to local government.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Since the time frame for filing on mineral lease lands remains unchanged, the change should have no impact on small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the time frame for filing on mineral lease lands remains unchanged, the change should have no impact on affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since this change clarifies the time period of bidding on mineral leases because of changes in the state's work week, it has no affect on businesses. They will continue to have the same amount of time to bid on mineral leases. Michael Styler, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
1594 W NORTH TEMPLE
SUITE 3520
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jennifer Wiglama at the above address, by phone at 801-538-5495, by FAX at 801-533-4111, or by Internet E-mail at jenniferwiglama@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: Richard J. Buehler, Director

R652. Natural Resources; Forestry, Fire and State Lands.
R652-20. Mineral Resources.
R652-20-1600. Posting Dates/Simultaneous Filing.

Notices of the offering of lands for simultaneous filing will run for 15 [~~working~~]business days and are posted at times to insure that all bid openings are on the last Monday of that month, or on the first business day following the last Monday of that month, if the last Monday falls on a legal state holiday.

KEY: royalties, salt, primary term, administrative procedures
Date of Enactment or Last Substantive Amendment: [~~March 26, 2007~~]2008
Notice of Continuation: April 2, 2007
Authorizing, and Implemented or Interpreted Law: 65A-6-2; 65A-6-4(3)

♦ ♦

Natural Resources; Forestry, Fire and State Lands
R652-70
Sovereign Lands

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32040
FILED: 10/13/2008, 17:13

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the change of this rule is to accommodate the changes in S.B. 138 from the 2007 General Session which repeals the authority in state land's statutes to specify by administrative rule conduct that may constitute a misdemeanor or a felony. (DAR NOTE: S.B. 138 (2007) is found at Chapter 322, Laws of Utah 2007, and was effective 04/30/2007.)

SUMMARY OF THE RULE OR CHANGE: The rule removes references to any misdemeanors on state lands and also realigns references to renumbered code.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article XX, and Section 65A-10-1

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: This rule merely changes language and references in code but does not fiscally impact the budget.
❖ LOCAL GOVERNMENTS: This rule does not impact local governments, so no budget impacts are anticipated.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This rule does not impact small businesses, so no budget impacts are anticipated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons since there are no changes in compliance or regulations in the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no compliance or regulatory costs to businesses as a result of this rule amendment, therefore, there is no budgetary impact to businesses. Michael R. Styler, Executive Director

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

NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
1594 W NORTH TEMPLE
SUITE 3520
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jennifer Wiglama at the above address, by phone at 801-538-5495, by FAX at 801-533-4111, or by Internet E-mail at jenniferwiglama@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: Richard J. Buehler, Director

R652. Natural Resources; Forestry, Fire and State Lands.
R652-70. Sovereign Lands.
R652-70-1900. Camping and Motor Vehicles.

1. The division may restrict camping on the beds of navigable lakes and rivers. Except as provided elsewhere in this rule, motor vehicles are prohibited from driving or parking on these lands at all times, except that those areas supervised by the Division of Parks and Recreation or other enforcement entity, and posted as open to vehicle use, will be open to vehicle use.

2. Persons found in violation of[~~In accordance with Subsections 65A-3-1(1)(b)~~] 65A-3-1(1)(g-h) are subject to the criminal penalties set forth in[~~and~~] 76-3-204[~~,~~] and 76-3-301 as determined by the court.[~~those found in violation of this rule will be charged with a class B misdemeanor, with sentence, fine, or both to be determined by the local magistrate.~~]

R652-70-2200. Violations.

The following acts or omissions shall subject a person to a civil penalty as provided in Section[~~s~~] [~~65A-3-1(2)~~]65A-3-1(3)[~~, and 76-3-204~~]:

1. A violation of the provisions of Section [~~65A-3-1(1)~~]65A-3-1(1-2);

2. A violation of any special order of the director applicable to the bed of a navigable water; or

3. Refusal to cease and desist from any violation in regards to the bed of a navigable water after having been notified to do so, in writing, by the director by personal service or certified mail, within the time provided in the notice, or within 30 days of service of the notice if no time is provided.

R652-70-2300. Management of Bear Lake Sovereign Lands.

(1) Lands lying below the ordinary high water mark of Bear Lake as of the date of statehood are owned by the state of Utah and shall be administered by the division as sovereign lands.

(2) Upon application for a specific use of state lands near the boundary of Bear Lake, or in the event of a dispute as to the ownership of the sovereign character of the lands near the boundary of Bear Lake, the division may evaluate all relevant historical evidence of the lake elevation, the water erosion along the shoreline, the topography of the land, and other relevant information to determine the relationship of the land in question to the ordinary high water mark.

(3) In the absence of evidence establishing the ordinary high water mark as of the date of statehood, the division shall administer all the lands within the bed of Bear Lake and lying below the level of 5,923.68 feet above mean sea level, Utah Power and Light datum, as being sovereign lands.

(4) The division, after notice to affected state agencies and any person with an ownership in the land, may enter into agreements to establish boundaries with owners of land adjoining the bed of Bear Lake; provided that the agreements shall not set a boundary for sovereign lands below the level of 5,923.68 feet above mean sea level.

(5) From October 1 through April 30, motor vehicle use and camping or picnicking will be allowed on the exposed lake bed with the following restrictions:

(a) Motor vehicles will not be allowed on lands administered by the Division of Parks and Recreation.

(b) The established speed limit is 20 miles per hour.

(c) Except as necessary to launch or retrieve watercraft, motor vehicles are not allowed within 100 feet of the water's edge. Travel parallel to the water's edge is allowed, outside of the 100 foot zone.

(d) Camping and use of motorized vehicles are prohibited between the hours of 10 p.m. and 6 a.m.

(e) No campfires or fireworks are allowed.

(6) From May 1 through September 30, motor vehicle use and camping or picnicking will be allowed on the exposed lake bed with the following restrictions:

(a) Areas posted by the division are off limits to motorized vehicles.

(b) The established speed limit is 15 miles per hour.

(c) Except as necessary to launch or retrieve watercraft, motor vehicles are not allowed within 100 feet of the waters edge.

(d) Unless posted otherwise, or to access a camping or picnicking spot, no motor vehicles may travel parallel to the waters edge.

(e) Camping and use of motorized vehicles are prohibited between the hours of 10 p.m. and 7 a.m.

(f) No campfires or fireworks are allowed.

(7) Persons found in violation of[~~In accordance with Subsections 65A-3-1(1)(b)~~] 65A-3-1(1) and 65A-3-1(2) are subject to the criminal penalties set forth in 76-3-204 and 76-3-301[~~,~~] as determined by the court as well as civil damages set forth in 65A-3-1(3).[~~those found in violation of this rule will be charged with a class B misdemeanor, with sentence, fine, or both to be determined by the local magistrate.~~]

KEY: sovereign lands, permits, administrative procedures
Date of Enactment or Last Substantive Amendment: [~~May 20, 2005~~]2008
Notice of Continuation: April 2, 2007
Authorizing, and Implemented or Interpreted Law: 65A-10-1

Public Education Job Enhancement Program, Job Enhancement Committee
R690-100
Public Education Job Enhancement Program Participant Eligibility and Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32041
FILED: 10/14/2008, 08:58

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Since the Public Education Job Enhancement Program (PEJEP) was established, a number of issues have come to the attention of the PEJEP Committee that require clarification. This rule is amended to provide for changes to the rule that include adding a new section to expand the Public Education Job Enhancement Program Committee Committee and create subcommittees to increase the PEJEP Committee's effectiveness, and provide new language to clarify participant eligibility and responsibility requirements.

SUMMARY OF THE RULE OR CHANGE: The changes include adding a new definition; adding a new section; and providing new and amended clarifying criteria for participants.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1a-602(5)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget because of the amendments to this rule. The changes are mainly to assist the PEJEP Committee and Program to function more effectively.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. School districts/schools do not provide funding or administer the PEJEP Program.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses. The PEJEP Program and funding of the Program relate specifically to public education.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as a result of the rule amendments. The changes provide for creation of subcommittees and eligibility clarification.

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:
PUBLIC EDUCATION JOB ENHANCEMENT PROGRAM
JOB ENHANCEMENT COMMITTEE
250 E 500 S
SALT LAKE CITY UT 84414, 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 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: John Sutherland, Chair, Job Enhancement Committee

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R690. Public Education Job Enhancement Program, Job Enhancement Committee.
R690-100. Public Education Job Enhancement Program Participant Eligibility and Requirements.
R690-100-1. Definitions.

A. "Advancement Award/scholarship recipient" means a scholarship to an educator qualified under Sections 53A-1a-601 (1) and (2) (a) and (b). The scholarship may be used for:

(1) training in subject areas designated in Section 53A-1a-601(1); and

(2) tuition costs only as designated in Section 53A-1a-601(2)(b) for a master's degree, teaching endorsement, or approved graduate program including National Board Certification.

B. "Contract" means a binding agreement signed and agreed to by the recipient, the PEJEP Committee and USOE under 53A-1a-602(3)(c); applications are available through the USOE and online through the USOE website at www.schools.utah.gov.

C. "Critical areas of educator need" means secondary school teachers with expertise in mathematics, physics, chemistry, physical science, learning technology, or information technology PreK-12 special education teachers, educators seeking math endorsements in fourth, fifth, and sixth grade with a Level 1 or Level 2 license with an elementary or secondary area of concentration, and occupational therapists.

D. "Information technology" for purposes of this rule means courses in information support and services, interactive media, network systems and programming, and software development as listed under information technology education in career and technical education (CTE) on the USOE website.

E. "Learning technology" for the purpose of this rule means a degree/endorsement earned to implement use of technology in

classrooms by secondary school teachers in the critical areas of educator need identified under R690-100-1C.

F. "Letter of authorization" under Section 53A-la-601(3) means a designation given to an individual pursuing an alternative license, who has not completed the requirements for a Level 1, 2, or 3 license or who has not completed necessary endorsement requirements for the course(s) he teaches, who is employed by a school district, who has an educator license under R277-502.

G. "National Board Certification" means the successful completion of the National Board for Professional Teaching Standards (NBPTS) process, a three-year process, that may include national content-area assessment, an extensive portfolio, and assessment of video-taped classroom teaching experience.

H. "Opportunity Award/signing bonus/cash award recipient" means a cash award paid in two installments to qualified educators under 53A-1a-601(2) (c) and (3)(a) and (b).

I. "Public Education Job Enhancement Program Committee (PEJEP Committee)" means the committee designated under Section 53A-la-602.

J. "Public Education Job Enhancement Program (PEJEP)" means a program authorized under Section 53A-la-601.

K. "Public Education Job Enhancement Program Executive Committee (PEJEP Executive Committee)" means a subcommittee of approximately five members of the PEJEP Committee including the PEJEP Chair and others as selected by the PEJEP Committee provided for in Section 53A-1a-602.

[~~K~~]L. "Special education teacher" means an educator who teaches at least three classes (or fifty percent of the school day) of primarily PreK-12 special education students or whose contract assignment is designated by the district as SPECIAL EDUCATION. Special education teacher may also mean speech and language pathologists and psychologists and special education educators teaching grade 12+ in a high school.

[~~L~~]M. "Technology training" for the purpose of this rule means professional development training to public school superintendents, administrators, and principals in the effective use of technology in public schools.

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

R690-100-2. Authority and Purpose for Opportunity and Advancement Awards.

A. The rule is authorized under Section 53A-la-602(5) which requires the PEJEP Committee to make a rule establishing policies and procedures for:

(1) designating the recipients and offering scholarships and cash awards from PEJEP funding;

(2) timelines for the submission and approval of applications;

(3) the distribution of the awards and scholarships; and

(4) monitoring educator progress and compliance with the law and this rule.

B. The purpose of this rule is to provide policies and procedures for participation in the Public Education Job Enhancement Program.

R690-100-3. PEJEP Committee and Committee Expansion.

A. The PEJEP Committee identified in Section 53A-1a-602 may create subcommittees, including a PEJEP Executive Committee to increase the PEJEP Committee's effectiveness.

(1) The PEJEP Executive Committee shall be designated by the PEJEP Committee.

(2) All subcommittee recommendations shall be affirmed by the PEJEP Committee.

(3) Subcommittee membership and terms shall be determined by the PEJEP Committee.

B. The PEJEP Committee may add advisory committee members to inform the PEJEP Committee's decisions. Advisory committee members may meet regularly with the PEJEP Committee but may not vote or approve applicants for awards.

R690-100-[~~3~~]4. Opportunity Awards.

A. Timelines for Opportunity Awards

(1) The PEJEP Committee shall provide to all public school district superintendents and charter schools, by [~~June 1~~]May 14 of each year, teacher information forms and funds available for Opportunity Awards consistent with critical areas of educator need identified under R690-100-1C.

(2) Information forms for awards shall also be available from the USOE and on-line through the USOE website.

(3) Completed information forms for Opportunity Awards, including required documentation, shall be due to the USOE from applying school districts and charter schools by November 1 annually.

(4) Recipients of Opportunity Awards shall receive the cash award in two installments, with the first initial payment at the beginning of the four year teaching commitment and the second installment at the conclusion of four consecutive years of teaching.

(a) The recipient shall repay a portion of the initial payment if the recipient fails to complete two years of the consecutive four year teaching commitment unless waived for good cause by the PEJEP Committee, designated in Section 53A-1a-602; and

(b) The recipient shall not receive the second installment if the recipient fails to complete the consecutive four year teaching commitment.

(5) The USOE shall receive documentation annually by October 1 from recipients of Opportunity Awards documenting a full-time [~~employment~~]schedule as educators during the previous school year.

(6) If the recipient desires to decrease his teaching employment [~~below~~]to less than full-time, teach less than 50 percent of the teacher's course load in the area of the award, or take a leave of absence at any time, the recipient shall submit a formal written request to the PEJEP Committee. The PEJEP Committee may grant or deny permission for the employment change within 30 days of the request; if permission is denied by the PEJEP Committee, provisions under 53A-1a-601(1)(c)(ii) shall apply immediately.

(7) The USOE shall be immediately notified by the Opportunity Award recipient if the recipient changes employers, leaves public education, or moves from the state; provisions of 53A-1a-601(1)(c)(ii) shall apply immediately if the recipient leaves public education or leaves the state.

(8) Opportunity Award recipients shall notify the USOE at the conclusion of the recipient's consecutive four year teaching commitment.

(9) The USOE shall make the final Opportunity Award payment in a timely manner upon notification by the recipient and documentation of full-time employment during the required four year period.

B. Award and Funding Requirements for Opportunity Awards

(1) To be eligible to receive an award under this rule, an educator shall:

([~~1~~]a) have signed an employment contract with a public school district or charter school;

([~~2~~]b) be recommended by secondary school principal, school district superintendent or designee or charter school director;

([~~3~~]c) be a fully licensed educator in Utah or enrolled in an alternative educator licensing program in:

([~~a~~]i) pre-K-12+ special education; or

([~~b~~]ii) a secondary education endorsement program (grades 7-12) in critical areas of educator need identified under R690-100-1C; and

([~~4~~]d) have taught under a letter of authorization for at least one year in the areas referred to under Section 53A-1a-601(1) and received a superior evaluation as a classroom teacher.

(2) Licensed teachers providing instruction to students in any public classroom setting shall be eligible for an Opportunity Award.

C. School district/charter school responsibilities:

(1) An employing school district/charter school shall notify the USOE if a recipient of an Opportunity Award ends school district employment.

(2) An employing school district/award recipient shall notify the USOE if an Opportunity Award recipient has his teaching assignment changed to less than 50 percent of his assignment in the area that qualified the teacher for the award.

(3) An employing school district shall notify the USOE of any other award or scholarship or special compensation that an award recipient is receiving, to the best of the employer's information, from another source.

R690-100-[4]5. Advancement Awards.

A. Timelines for Advancement Awards

(1) Applications for Advancement Awards shall be available from the USOE and online through the USOE website.

(2) Educators may apply at any time throughout the year and may receive an award subject to funds available.

(3) Beginning in June 2008, upon receipt of the Advancement Award and each semester that recipient receives the Advancement Award, [~~R~~]recipient[~~s of Advancement Awards~~] shall provide documentation to the USOE [~~at least one time during each semester~~]that the recipient is enrolled in[~~an~~] approved higher education [~~program~~]course(s).[

~~(4) The USOE shall notify recipients immediately if recipients' course work or grades are unsatisfactory; recipients continued participation shall be reviewed by the Committee.~~

~~(5) Recipients shall begin taking higher education courses within one calendar year of receipt of the award.~~]

([~~6~~]4) Recipients have four years to complete course work for a master's degree, teaching endorsement, or approved graduate program.

([~~7~~]5) Upon completion of the master's degree, teaching endorsement, or approved graduate program, a recipient shall notify the USOE and provide an official higher education transcript or appropriate documentation.

([~~8~~]6) Recipients of the Advancement Awards shall notify the USOE immediately if they change public education employers, drop their class loads below 3 credit hours or move from the state.

([~~9~~]7) If the recipient interrupts employment for any reason, the recipient shall submit a formal written letter to the PEJEP Committee explaining the reason for the interruption and requesting a continuance of the contract.

B. Award and Funding Requirements for Advancement Awards

To be eligible to receive an award under this rule, an educator shall:

(1) be approved by the employing principal and the school district superintendent or designee or a charter school director and charter school board chair;

(2) be a fully licensed Utah educator or enrolled in a Utah alternative educator licensing program.

(3) agree to enroll in eligible schools or programs within one year from the date of the award;

(4) provide documentation to the PEJEP Committee of acceptance into an approved graduate program, including National Board Certification, leading to a master's degree or teaching endorsement in areas identified under R690-100-1C;

(5) not use the award to pay for course work in counseling or administration.

C. Additional Recipient Requirements for Advancement Awards; a recipient shall:

(1) [~~C~~]complete the program within four years from the date of initial enrollment.

(2) [~~C~~]complete endorsement classes in a timely manner as approved in the contract with the PEJEP Committee.

(3) [~~S~~]successfully [~~finish~~]complete (2.0 average or better) all classes for which recipient is reimbursed.

(4) [~~E~~]enroll and seek reimbursement only for courses leading directly to a master's degree, teaching endorsement, or approved graduate program, for which the award was made.

(5) [~~S~~]show evidence of progress toward master's degree, teaching endorsement, or approved graduate program, every semester for which the award is used.

(6) [~~Recipient~~]commit[~~s~~] to teach in Utah public schools in an area identified in 53A-1a-601(1) for a period of four consecutive school years following the completion of the endorsement or degree for which the award was made.

(7) notify the USOE if a recipient of an Advancement Award ends school district employment.

(8) notify the USOE if an Advancement Award recipient has his teaching assignment changed to less than 50 percent of his assignment in the area that qualified the teacher for the award.

(9) notify the USOE of any other award or scholarship or special compensation that an award recipient is receiving, to the best of the employer's information, from another source.

(10) be eligible for an Advancement Award if the recipient provides instruction to students in any public school setting, including secure facilities with education components under the control and supervision of the public school system.

D. Award Priorities for Advancement Awards

(1) Superintendent/principal recommendations

(2) Existing formal qualifications, evaluations, degrees, certificates, endorsements, licenses of educators in district/school.

(3) Applicants' discussions of career plans, educational objectives, and estimated time periods for completion of course work.

(4) Alignment of applicant career/educational objectives with intent and express purposes of Section 53A-1a-601.

R690-100-[5]6. Enforcement and Penalty Provisions for Breach of PEJEP Contract for Opportunity and Advancement Awards.

A. It is the responsibility of award recipients to notify in writing both the USOE and employing school district, during the period of the award, of changes in recipient's name, mailing address, telephone number, or licensing status.

[~~A~~]B. If an Opportunity Award or Advancement Award recipient fails to satisfy the teaching commitment, earn the master's degree, or teaching endorsement, or complete the approved graduate program, the recipient [~~shall~~]may be responsible to repay, as determined by the PEJEP Committee, the full or a prorated amount of the cash award or scholarship fund received.

[~~B~~]C. The entire amount of the cash award or scholarship may become due and payable immediately, including interest following review by the PEJEP Committee for violations of Section 53A-1a-601 or this rule.

[~~C~~]D. The recipient [~~shall~~]may be responsible for any and all necessary collection costs.

[~~D~~]E. Legal action may be taken against recipient as recommended by the PEJEP Committee and approved by the USOE and the Utah Attorney General's Office.

[~~E~~]F. A recipient may be referred to the Utah Professional Practices Advisory Committee for possible action against the recipient's license for willful violations of law or this rule.

[~~F~~]G. Should recipient's license be suspended or revoked by the Utah State Board of Education, consistent with due process provided for in state law, the award or scholarship shall be canceled at the time of license revocation and subject to the conditions stated in R690-100-5.

[~~G~~]H. Exceptions to any provision of the Opportunity or Advancement Award contracts shall be approved in writing by the PEJEP Committee.

R690-100-[~~6~~]7. Miscellaneous Provisions or Requirements for the Opportunity and Advancement Awards.

A. In any given school year, a teacher shall not receive both an Opportunity Award and an Advancement Award and shall not receive two Opportunity awards concurrently.

B. Recipients of the Opportunity Award and Advancement Award may not apply for a second award until the consecutive four year teaching commitment has been fulfilled.

C. Opportunity and Advancement award educators may take less than a full-time course load in the areas identified in 53A-1a-601(1), if student demand is not sufficient for a full-time assignment in those subject areas.

D. If the Opportunity or Advancement Award recipient should die before the conditions or repayment of the award is satisfied, the entire commitment or balance shall be waived.

E. The educator shall be teaching in the critical areas of educator need identified under R690-100-1C,D,and E, to apply for a PEJEP scholarship toward any learning technology degree, endorsement, or advanced degree.

F. Advancement Award Recipients taking 9 credit hours during summer months (forgoing employment during that time) may receive a $6,000 summer stipend, at the discretion of the PEJEP Committee; summer stipends shall be prorated for educators in regulated programs and those recipients may receive $2,000 per 3 credit hours, up to $6,000.

[~~H~~]G. Endorsement program recipients may receive only one summer stipend of $6,000 per 9 credit hours at the discretion of the PEJEP Committee.

[~~G~~]H. Endorsement caps shall be commensurate with increased tuition costs for the specific endorsement; and

I. Teachers who have their assignment changed which takes them out of their classroom teaching in the PEJEP content areas, must submit a petition to the PEJEP Committee for potential waiver of penalties associated with the change.

J. The consecutive four year teaching commitment may be met by educators who are promoted, assigned, or advised to change their teaching assignment and work within the district or state in a similar role for which the Opportunity Award or Advancement Award was made, following PEJEP Committee approval.

K. Applicants are not eligible for Advancement Awards if the individuals are in their last semester of their degree or endorsement programs or if they have completed their degree, endorsement, or advanced degree program.

L. The PEJEP Committee has the discretion to accept and fund applications received after established deadlines provided that timely applications shall be considered first and all funding shall be approved and distributed only to the extent of funds available.

R690-100-[~~7~~]8. Provisions or Requirements for the Technology Training Component of 53A-1a-601(4)(a).

Technology training courses, programs or conferences that provide professional development for public school superintendents, administrators and principals in the effective use of technology in public schools shall be submitted to the PEJEP Committee by applicants for consideration and approval under 53a-1A-601(4).

KEY: scholarships, awards, educators
Date of Enactment or Last Substantive Amendment: [~~August 7, 2007~~]2008
Authorizing, and Implemented or Interpreted Law: 53A-1a-602(5)

♦ ♦

Public Safety, Driver License
R708-26-5
Motorcycle Learner Permit

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32018
FILED: 10/09/2008, 16:36

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: It is not necessary to designate motorcycle learner permit restrictions in administrative rule because H.B. 72 was passed in 2008. This bill, Motorcycle License and Endorsement Amendments, codifies motorcycle learner permit restrictions under Section 53-3-210.6. (DAR NOTE: H.B. 72 (2008) is found at Chapter 304, Laws of Utah 2008, and was effective 07/01/2008.)

SUMMARY OF THE RULE OR CHANGE: This change removes motorcycle learner permit restrictions language from the section.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-3-104

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: There is no cost to the state budget because there were only minor changes made to motorcycle

learner permit restrictions previously designated in administrative rule and that are now designated in statute.
❖ LOCAL GOVERNMENTS: There is no cost to local government because they are not involved in issuing motorcycle learner permits.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There is no cost to small businesses because they are not involved in issuing motorcycle learner permits.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional compliance costs for affected persons. Motorcycle Learner Permit restrictions in Section R708-26-5 restricted the operator to driving a motorcycle only during daylight hours and only without passengers. Subsection 53-3-210.6(3)(a) restricts the operation of a motorcycle for the first two months from the date the permit is issued by prohibiting operation of a motorcycle on a highway with a posted speed limit of more than 60 miles per hour; with any passengers; or during the nighttime hours after 10 p.m. and before 6 a.m. The restrictions are removed for the third through sixth month from the date a motorcycle learner permit is issued.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses because of this rule amendment. Scott Duncan, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
DRIVER LICENSE
CALVIN L RAMPTON COMPLEX
4501 S 2700 W 3RD FL
SALT LAKE CITY UT 84119-5595, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jill Laws at the above address, by phone at 801-964-4469, by FAX at 801-964-4482, or by Internet E-mail at jlaws@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: Nannette Rolfe, Director

R708. Public Safety, Driver License.
R708-26. Learner Permit Rule.
[~~R708-26-5. Motorcycle Learner Permit.~~
~~A person who has been issued a motorcycle learner permit may drive a motorcycle only during daylight hours and only without passengers.~~

]**KEY: learner permit**
Date of Enactment or Last Substantive Amendment: [~~August 8, 2006~~]2008
Notice of Continuation: August 25, 2004
Authorizing, and Implemented or Interpreted Law: 53-3-210

♦ ♦

Public Safety, Fire Marshal
R710-2-8
Adjudicative Proceedings

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32051
FILED: 10/15/2008, 07:36

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met on 09/09/2008 in a regularly scheduled Board meeting and passed by motion and unanimous vote to update Section R710-2-8.

SUMMARY OF THE RULE OR CHANGE: The proposed rule amendments are as follows: 1) in Subsections R710-2-8(8.2) through (8.2.5), the Board proposes to add verbiage that makes the rule sections consistent with the other adopted rules of the Board; 2) in Subsection R710-2-8(8.2.7) through (8.2.9), the Board proposes to add additional requirements of unacceptable behavior that could cause a person to have their license denied, suspended or revoked; and 3) in Subsection R710-2-8(8.8), the Board proposes to add a new section that allows a person who has lost their license to reapply to the Board for consideration of reinstatement after a three-year period of suspension or revocation.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 53-7-204 and 53-7-223

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: There is no aggregate anticipated cost or savings to the state budget because the enactment of these proposed rule changes will clean up and update the rule, but will not have an effect on the state budget.
❖ LOCAL GOVERNMENTS: There is no aggregate anticipated cost or savings to local government because these proposed rule changes have an effect on those that license as importers, wholesalers, and professional pyrotechnic display operators who are overseen by the state, not local government.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There is no aggregate anticipated cost or savings to small businesses because these proposed updates clean up Section R710-2-8 making it consistent with the other adopted rules and have no affect on small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance costs for affected persons because these proposed rule amendments clean up and update Section R710-2-8 and do not require any compliance costs to do so for those defined as 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 by the enactment of these proposed rule amendments. Scott T. Duncan, Commissioner

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

PUBLIC SAFETY
FIRE MARSHAL
Room 302
5272 S COLLEGE DR
MURRAY UT 84123-2611, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

R710. Public Safety, Fire Marshal.
R710-2. Rules Pursuant to the Utah Fireworks Act.
R710-2-8. Adjudicative Proceedings.

8.1 All adjudicative proceedings performed by the agency shall proceed informally as set forth herein and as authorized by UCA, Sections 63G-4-202 and 63G-4-203.

8.2 The issuance, renewal, or continued validity of a license may be denied, suspended or revoked, if the SFM, or his authorized deputies finds that the applicant, person employed for, the person having authority and management of a concern[~~, or the person in question~~] commits any of the following violations:

8.2.1 The person or applicant is not the real person in interest.

8.2.2 The person of applicant provides [~~M~~]material misrepresentation or false statement [~~in~~]on the application.

8.2.3 The person or applicant refuses[~~Refusal~~] to allow inspection by the AHJ.

8.2.4 The person or applicant for a license does not possess the qualifications of skill or competence to conduct operations for which application is made, as evidenced by failure to pass the examination or demonstrate practical skills.

8.2.5 The person or applicant has been convicted of one or more federal, state or local laws[~~any of the following:~~

~~8.2.5.1 a violation of the provisions of these rules;~~

~~8.2.5.2 a crime of violence or theft; or~~

~~8.2.5.3 any crime that bears upon the person or applicant's ability to perform their functions and duties~~].

8.2.6 Failure to accurately complete the Pyrotechnician's After Action Report for Fireworks Display form.

8.2.7 The person or applicant has been convicted of a violation of the adopted rules or been found by a Board administrative proceeding to have violated the adopted rules.

8.2.8 Any offense or finding of unlawful conduct, or there is or may be, a threat to the public's health or safety if the applicant or person were granted a license or certificate of registration.

8.2.9 There are other factors upon which a reasonable and prudent person would rely to determine the suitability of the applicant or person to safely and competently engage in the practice of servicing portable fire extinguishers.

8.3 A person may request a hearing on a decision made by the AHJ, by filing an appeal to the Board within 20 days after receiving final notice from the AHJ.

8.4 All adjudicative proceedings, other than criminal prosecution, taken by the AHJ to enforce the Utah Fire Prevention and Safety Act, and these rules, shall commence in accordance with UCA, Section 63G-4-201.

8.5 The Board shall act as the hearing authority, and shall convene as an appeals board after timely notice to all parties involved.

8.6 The Board shall direct the SFM to issue a signed order to the parties involved giving the decision of the Board within a reasonable time of the hearing pursuant to UCA, Section 63G-4-203.

8.7 Reconsideration of the Board's decision may be requested in writing within 20 days of the date of the decision pursuant to UCA, Section 63G-4-302.

8.8 After a period of three years from the date of revocation, the Board shall review the submitted written application of a person whose license or certificate of registration has been revoked. After timely notice to all parties involved, the Board shall convene to review the revoked persons application, and that person shall be allowed to present themselves and their case before the Board. After the hearing, the Board shall direct the SFM to allow the person to complete the licensing or certification process or shall direct that the revocation be continued.

8.[~~8~~]9 Judicial review of all final Board actions resulting from informal adjudicative proceedings shall be conducted pursuant to UCA, Section 63G-4-402.

KEY: fireworks
Date of Enactment or Last Substantive Amendment: [~~May 23,~~]December 8, 2008
Notice of Continuation: June 4, 2007
Authorizing, and Implemented or Interpreted Law: 53-7-204

♦ ♦

Tax Commission, Auditing

R865-4D-2

Clean Special Fuel Certificate, Refund Procedures for Undyed Diesel Fuel Used Off-Highway or to Operate a Power Take-Off Unit, and Sales Tax Liability Pursuant to Utah Code Ann. Sections 59-13-301 and 59-13-304

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32035
FILED: 10/13/2008, 14:15

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendment is required due to statutory changes caused by H.B. 206 (2008). (DAR NOTE: H.B. 206 (2008) is found at Chapter 384, Laws of Utah 2008, and will be effective 01/01/2009.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes all references to the clean special fuel certificate, since that certificate is no longer required by statute.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-13-301 and 59-13-304

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any fiscal impact was considered in H.B. 206 (2008).
❖ LOCAL GOVERNMENTS: None--Any fiscal impact was considered in H.B. 206 (2008).
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any fiscal impact was considered in H.B. 206 (2008).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--A user of clean special fuel is no longer required to purchase a clean special fuel certificate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts as any impact should have been considered with H.B. 206 (2008). D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2009

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.
R865-4D. Special Fuel Tax.
R865-4D-2. [~~Clean Special Fuel Certificate,~~]Refund Procedures for Undyed Diesel Fuel Used Off-Highway or to Operate a Power Take-Off Unit, and Sales Tax Liability Pursuant to Utah Code Ann. Sections 59-13-301 and 59-13-304.

[~~A. If the vehicle is registered in Utah, the fee for a clean special fuel certificate under Section 59-13-304 is due at the time the vehicle is placed in operation and annually thereafter on the date the vehicle's registration is renewed. Certificates may be obtained from any Tax Commission office or any local motor vehicle office. If a vehicle is not registered in Utah, the fee is due on the date the vehicle begins operation in Utah. The fee paid for a vehicle placed in operation may be pro-rated on a monthly basis if the certificate obtained for the vehicle is valid for a period of less than 12 months. Fees paid will not be refunded if a vehicle is sold or otherwise disposed of prior to the expiration date of the certificate.~~

~~B.~~](1) Fuel used in a vehicle off-highway is calculated by taking off-highway miles divided by the average number of miles per gallon. Any other method of calculating undyed diesel fuel used off-highway must be supported by on-board computer information or other information that shows the number of gallons used off-highway with accuracy equal or comparable to on-board computers.

[~~C.~~](2) Where a power take-off unit is driven by the main engine of the vehicle and used to operate auxiliary equipment, a quantity, as enumerated below, of the total undyed diesel fuel delivered into the service tank of the vehicle shall be deemed to be used to operate the power take-off unit. The allowances for power take-off units are as follows:

[~~1.~~](a) concrete mixer trucks - 20 percent;

[~~2.~~](b) garbage trucks with trash compactor - 20 percent;

[~~3.~~](c) vehicles with powered pumps, conveyors or other loading or unloading devices may be individually negotiated but shall not exceed:

[~~a)~~](i) 3/4 gallon per 1000 gallons pumped; or

[~~b)~~](ii) 3/4 gallon per 6000 pounds of commodities, such as coal, grain, and potatoes, loaded or unloaded.

[~~4.~~](d) Any other method of calculating the amount of undyed diesel fuel used to operate a power take-off unit must be supported by documentation and records, including on-board computer printouts or other logs showing daily power take-off activity, that establish the actual amount of power take-off activity and fuel consumption.

[~~D.~~](3) Allowances provided for in [~~B. and C. above~~] Subsections (1) and (2) will be recognized only if adequate records are maintained to support the amount claimed.

[~~E.~~](4) In the case of users filing form TC-922, Fuel Tax Return For International Fuel Tax Agreement (IFTA) And Special Fuel User Tax, or form TC-922C, Refund of Tax Paid on Exempt Fuel for Non-Utah Based Carriers, the allowance provided for in [~~C.~~]Subsection (2) will be refunded to the extent total gallons allocated to Utah through IFTA exceed the actual taxable gallons used in Utah, except that in no case will refunds be allowed for power take-off use that does not occur in Utah.

[~~F.~~](5) Undyed diesel fuel used on-highway for the purpose of idling a vehicle does not qualify for a refund on special fuel tax paid since the fuel is used in the operation of a motor vehicle.

[~~G.~~](6) Diesel fuel that is purchased exempt from the special fuel tax or for which the special fuel tax has been refunded is subject to sales and use tax, unless specifically exempted under the sales and use tax statutes.

KEY: taxation, fuel, special fuel
Date of Enactment or Last Substantive Amendment: [~~November 17, 2006~~]2009
Notice of Continuation: February 26, 2007
Authorizing, and Implemented or Interpreted Law: 59-13-301; 59-13-304

Tax Commission, Auditing
R865-12L-6
Place of Transaction Pursuant to Utah Code Ann. Section 59-12-207

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32034
FILED: 10/13/2008, 14:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment arises from a review of the section.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes language that is no longer necessary.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-207

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--The provisions of this section that are deleted are not necessary as they are adequately dealt with in statute.
❖ LOCAL GOVERNMENTS: None--The provisions of this section that are deleted are not necessary as they are adequately dealt with in statute.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The provisions of this section that are deleted are not necessary as they are adequately dealt with in statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The amendment deletes superfluous language.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--Deletes repetitive language. D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2009

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.
R865-12L. Local Sales and Use Tax.
R865-12L-6. Place of Transaction Pursuant to Utah Code Ann. Section 59-12-207.

[~~A. The sale of merchandise shipped from outside Utah direct to a consumer in any county in Utah that has adopted the Uniform Local Sales and Use Tax Law is subject to local use tax, regardless of where the order was taken.~~

~~B. If a vendor sells merchandise that is shipped from outside Utah direct to a consumer in a county in Utah that has adopted the uniform local tax law, and if the vendor engages in solicitation or representation in that county or has a place of business or property located in that county, then the vendor is required to collect and remit local use tax in addition to the state use tax.~~

~~C. Vendors who sell merchandise that is shipped from outside Utah direct to a consumer in any county in Utah that has adopted the uniform local tax law but who are not required to collect the local use tax under the criteria in the preceding paragraph are nevertheless requested to collect and remit local use tax in addition to state use tax on a voluntary basis in the same manner as though they were required to do so.~~

~~D. If a vendor who is not required to collect local use tax on shipments into counties that have adopted the uniform local tax law does not collect local tax but collects the state tax only, then the consumer remains liable for the local use tax and must remit the local use tax direct to the Tax Commission even though the state tax has been collected by the vendor.~~

~~E. Purchases subject to use tax are defined as those purchases made by ultimate consumers for their own storage, use, or consumption in Utah when the merchandise is shipped from outside Utah direct to the purchaser in Utah and on which the vendor did not charge Utah use tax. Local use tax applies to purchases subject to use tax, as defined above, that are stored, used, or consumed in a county that has adopted the uniform local tax law.~~

~~F.~~]Taxpayers having one or more places of business in Utah shall report all purchases subject to use tax, as defined [~~above~~]in rule R865-19S-1, according to the location of the place of business at which the tangible personal property is initially delivered.[~~If initially delivered within a county that has adopted the uniform local tax law, local use tax applies, regardless of whether the goods are later transferred to a different location.~~]

KEY: taxation, sales tax, restaurants, collections
Date of Enactment or Last Substantive Amendment: [~~October 12, 2007~~]2009
Notice of Continuation: March 16, 2007
Authorizing, and Implemented or Interpreted Law: 59-12-207

Tax Commission, Auditing
R865-12L-12
Leases and Rentals Pursuant to Utah Code Ann. Section 59-12-204

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32032
FILED: 10/13/2008, 13:34

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The section is removed because the statutory language on which it is based has been repealed by H.B. 206 (2008). That bill provides a new section in the Utah Code, 59-12-214, that indicates how sales tax revenue collected by leases and rentals will be sourced to local jurisdictions. (DAR NOTE: H.B. 206 (2008) is found at Chapter 384, Laws of Utah 2008, and will be effective 01/01/2009.)

SUMMARY OF THE RULE OR CHANGE: The section is removed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-207

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any fiscal impact was considered in H.B. 206 (2008).
❖ LOCAL GOVERNMENTS: None--Any fiscal impact was considered in H.B. 206 (2008).
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any fiscal impact was considered in H.B. 206 (2008).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Vendors of leases and rentals will provide information as required by statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated impacts as these would have been considered with H.B. 206 (2008). D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2009

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.
R865-12L. Local Sales and Use Tax.
~~[R865-12L-12. Leases and Rentals Pursuant to Utah Code Ann. Section 59-12-204.~~
~~A. Local sales tax applies to all lease and rental charges where the tangible personal property leased or rented is delivered from a lessor's place of business that is located in a county that has adopted The Uniform Local Sales and Use Tax Law. The local sales tax accrues to the county or city from which the property was delivered, regardless of where in Utah such property is used. The lessor is required to collect and remit both local and state sales tax.~~
~~B. Lessors who lease or rent tangible personal property that is shipped from outside Utah direct to a lessee in Utah are required to collect local use tax on lease charges for tangible personal property used in a county that has adopted the uniform local tax law, regardless of whether the lessor has a place of business in that county or in Utah. The presence of the lessor's property in a county that has adopted the uniform local tax law imposes the liability upon the lessor to collect and remit local use tax in addition to state use tax. The local use tax on rental and lease charges accrues to the county in which the tangible personal property is being used. With motor vehicles leased in Utah by a lessor who has no place of business in Utah, the local tax will apply according to the Utah address of the lessee, and the tax is to be collected by the lessor and reported on that basis.~~

]KEY: taxation, sales tax, restaurants, collections
Date of Enactment or Last Substantive Amendment: [~~October 12, 2007~~]2009
Notice of Continuation: March 16, 2007
Authorizing, and Implemented or Interpreted Law: 59-12-118; 59-12-205; 59-12-207; 59-12-301; 59-12-355; 59-12-501; 59-12-502; 59-12-602; 59-12-603; 59-12-703; 59-12-802; 59-12-804

♦ ♦

Tax Commission, Auditing
R865-12L-13
Repairmen and Servicemen Pursuant to Utah Code Ann. Section 59-12-204

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32015
FILED: 10/09/2008, 13:01

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The section is removed because H.B. 206 (2008) directs how sales tax collected by servicemen and repairmen shall be sourced to local tax jurisdictions. (DAR NOTE: H.B. 206 (2008) is found at Chapter 384, Laws of Utah 2008, and will be effective 01/01/2009.)

SUMMARY OF THE RULE OR CHANGE: The section is removed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-204

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any fiscal impact was considered by H.B. 206 (2008).
❖ LOCAL GOVERNMENTS: None--Any fiscal impact was considered by H.B. 206 (2008).
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any fiscal impact was considered by H.B. 206 (2008).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Statutory language enacted by H.B. 206 (2008) directs how these tax collections shall be sourced to local communities.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--Any fiscal impact was considered in H.B. 206 (2008). D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2009

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.
R865-12L. Local Sales and Use Tax.
[~~R865-12L-13. Repairmen and Servicemen Pursuant to Utah Code Ann. Section 59-12-204.~~
~~A. Charges for repairs, renovations, or other taxable services to tangible personal property are assigned to the office or place of business out of which the repairman or serviceman works.~~
~~B. If a repairman or serviceman works out of a place of business located in a county that has adopted The Uniform Local Sales and Use Tax Law, the total charge for taxable services to tangible personal property is subject to both state and local sales tax, regardless of where in Utah the service or labor is performed.~~
~~Reference: ARM File No. 46.~~

]**KEY: taxation, sales tax, restaurants, collections**
Date of Enactment or Last Substantive Amendment: [~~October 12, 2007~~]2009

Notice of Continuation: March 16, 2007
Authorizing, and Implemented or Interpreted Law: 59-12-118; 59-12-205; 59-12-207; 59-12-301; 59-12-355; 59-12-501; 59-12-502; 59-12-602; 59-12-603; 59-12-703; 59-12-802; 59-12-804

♦ ——— ♦

Tax Commission, Auditing
R865-19S-12
Filing of Returns Pursuant to Utah Code Ann. Sections 59-12-107 and 59-12-118

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32008
FILED: 10/09/2008, 09:44

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment is promulgated as required by H.B. 206 (2008). (DAR NOTE: H.B. 206 (2008) is found at Chapter 384, Laws of Utah 2008, and will be effective 01/01/2009.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment indicates what sales tax form a remote seller shall file with the commission.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 58-12-107 and 59-12-118

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any fiscal impact was considered in H.B. 206 (2008).
❖ LOCAL GOVERNMENTS: None--Any fiscal impact was considered in H.B. 206 (2008).
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any fiscal impact was considered in H.B. 206 (2008).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendment directs a remote seller to the appropriate sales tax return.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts as any would have been considered in the H.B. 206 (2008). D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2009

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.
R865-19S. Sales and Use Tax.
R865-19S-12. Filing of Returns Pursuant to Utah Code Ann. Sections 59-12-107 and 59-12-118.

[~~A.~~](1)(a) Every person responsible for the collection of the tax under the act shall file a return with the Tax Commission whether or not sales tax is due.

(b) The return filed by a remote seller under Section 59-12-107(4) shall be the return the seller would have filed if the seller were not a remote seller.

[~~B.~~](2) If the due date for a return falls on a Saturday, Sunday, or legal holiday, the return will be considered timely filed if it is received on the next business day.

[~~C.~~](3) If a return is transmitted through the United States mail, a legible cancellation mark on the envelope, or the date of registration of certification thereof by a United States post office, is considered the date the return is filed.

[~~D.~~](4) Sales and use tax returns shall be filed and paid monthly or quarterly with the following exceptions:

[~~1.~~](a) New businesses that expect annual sales and use tax liability less than $1,000, shall be assigned an annual filing status unless quarterly filing status is requested.

[~~2.a)~~](b)(i) Businesses currently assigned a quarterly filing status, in good standing and reporting less than $1,000 in tax for the preceding calendar year may be changed to annual filing status.

[~~b)~~](ii) The Tax Commission will notify businesses, in writing, if their filing status is changed to annual.

[~~3.a)~~](c)(i) Businesses assigned an annual filing status reporting in excess of $1,000 for a calendar year, will be changed to quarterly filing status.

[~~b)~~](ii) The Tax Commission will notify businesses, in writing, if their filing status is changed to quarterly.

[~~E.~~](5) Annual returns are due on January 31 following the calendar year end. The Tax Commission may revoke the annual filing status if sales tax collections are in excess of $1,000 or as a result of delinquent payment history.

KEY: charities, tax exemptions, religious activities, sales tax
Date of Enactment or Last Substantive Amendment: [~~August 18, 2008~~]2009
Notice of Continuation: March 13, 2007
Authorizing, and Implemented or Interpreted Law: 59-12-107; 59-12-118

♦ ♦

Tax Commission, Auditing
R865-19S-27
Retail Sales Defined Pursuant to Utah Code Ann. Sections 59-12-102 and 59-12-103(1)(g)

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32017
FILED: 10/09/2008, 13:16

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The section is removed because the substance of the rule is found in statute and other rules.

SUMMARY OF THE RULE OR CHANGE: The section is removed since it is unnecessary.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-12-102 and 59-12-103

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--The substance of the rule is found in statute and other rules.
❖ LOCAL GOVERNMENTS: None--The substance of the rule is found in statute and other rules.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The substance of the rule is found in statute and other rules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The removed language is unnecessary.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--The removed language is unnecessary. D'Arcy Dixon, Commissioner

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SALT LAKE CITY UT 84134, or
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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2009

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.
R865-19S. Sales and Use Tax.
[~~R865-19S-27. Retail Sales Defined Pursuant to Utah Code Ann. Sections 59-12-102 and 59-12-103(1)(g).~~

~~A. The term retail sale has a broader meaning than the sale of tangible personal property. It includes any transfers, exchanges, or barter whether conditional or for a consideration by a person doing business in such commodity or service, either as a regularly organized principal endeavor or as an adjunct thereto. The price of the service or tangible personal property, the quantity sold, or the extent of the clientele are not factors which determine whether or not it is a retail sale.~~

~~B. Retail sale also includes certain leases and rentals of tangible personal property as defined in Rule R865-19S-32, accommodations as defined in Rule R865-19S-79, services performed on tangible personal property as defined in Rules R865-19S-51 and R865-19S-78, services that are part of a sale or repair, admissions as defined in Rules R865-19S-33 and R865-19S-34, sales of meals as defined in Rules R865-19S-61 and R865-19S-62, and sales of certain public utility services.~~

~~C. A particular retail sale or portion of the selling price may not be subject to a sales or use tax. The status of the exemption is governed by the circumstances in each case. See other rules for specific and general exemption definitions, Rule R865-19S-30 for definition of sales price and Rule R865-19S-72 covering trade-ins.~~

]**KEY: charities, tax exemptions, religious activities, sales tax**
Date of Enactment or Last Substantive Amendment: [~~August 18, 2008~~]2009
Notice of Continuation: March 13, 2007
Authorizing, and Implemented or Interpreted Law: 59-12-102; 59-12-103

♦ ♦

Tax Commission, Auditing
R865-19S-29
Wholesale Sale Defined Pursuant to Utah Code Ann. Section 59-12-102

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32030
FILED: 10/13/2008, 10:17

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The section is removed because it is unnecessary repetition of statutes and other sections.

SUMMARY OF THE RULE OR CHANGE: The section is removed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-102

ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: None--The section contained language duplicative of statutes and other sections.
- LOCAL GOVERNMENTS: None--The section contained language duplicative of statues and other sections.
- SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The section contained language duplicative of statutes and other sections.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The section is removed because it is unnecessary.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--The section is repetitive of other statutes and sections. D'Arcy Dixon, Commissioner

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210 N 1950 W
SALT LAKE CITY UT 84134, or
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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2009

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.
R865-19S. Sales and Use Tax.
[~~R865-19S-29. Wholesale Sale Defined Pursuant to Utah Code Ann. Section 59-12-102.~~

~~A. "Wholesale sale" means any sale by a wholesaler, retailer, or any other person, of tangible personal property or services to a retailer, jobber, dealer, or another wholesaler for resale.~~

~~1. All sales of tangible personal property or services which enter into and become an integral or component part of tangible personal property or product which is further manufactured or compounded for sale, or the container or the shipping case thereof, are wholesale sales.~~

~~2. All sales of poultry, dairy, or other livestock feed and the components thereof and all seeds and seedlings are deemed to be wholesale sales where the eggs, milk, meat, or other livestock products, plants, or plant products are produced for resale.~~

~~3. Sprays and insecticides used in the control of insect pests, diseases, and weeds for the commercial production of fruit, vegetables, feeds, seeds, and animal products shall be wholesale sales. Also baling ties and twine for baling hay and straw and fuel sold to farmers and agriculture producers for use in heating orchards and providing power in off-highway type farm machinery shall be wholesale sales.~~

~~B. Tangible personal property or services which are purchased by a manufacturer or compounder which do not become and remain an integral part of the article being manufactured or compounded are subject to sales or use tax.~~

~~1. For example, sales to a knitting factory of machinery, lubricating oil, pattern paper, office supplies and equipment, laundry service, and repair labor are for consumption and are taxable. These services and tangible personal property do not become component parts of the manufactured products. On the other hand, sales of wool, thread, buttons, linings, and yarns, to such a manufacturer that do become component parts of the products manufactured are not taxable.~~

~~C. The price of tangible personal property or services sold or the quantity sold are not factors which determine whether or not the sale is a wholesale sale.~~

~~D. All vendors who make wholesale sales are required to obtain an exemption certificate from the purchaser as evidence of the nature of the sale, as required by Rule R865-19S-23.~~

]**KEY: charities, tax exemptions, religious activities, sales tax**
Date of Enactment or Last Substantive Amendment: [~~August 18, 2008~~]2009
Notice of Continuation: March 13, 2007
Authorizing, and Implemented or Interpreted Law: 59-12-102

♦ ♦

Tax Commission, Auditing
R865-19S-90
Telephone Service Pursuant to Utah Code Ann. Section 59-12-103

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32007
FILED: 10/09/2008, 09:35

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment is necessary due to statutory changes occurring from H.B. 206 (2008). (DAR NOTE: H.B. 206 (2008) is found at Chapter 384, Laws of Utah 2008, and will be effective 01/01/2009.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes language that has been placed into statute, and unnecessary language based on statutory changes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-103

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any fiscal impact was considered in H.B. 206 (2008).
❖ LOCAL GOVERNMENTS: None--Any fiscal impact was considered in H.B. 206 (2008).
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any fiscal impact was considered in H.B. 206 (2008).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Language moved from rule to statute, and language deleted as unnecessary does not have substantive impact.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated impacts as any fiscal impact would have been considered with H.B. 206 (2008). D'Arcy Dixon, Commissioner

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AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2009

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.
R865-19S. Sales and Use Tax.
R865-19S-90. [~~Telephone~~]Telecommunications Service Pursuant to Utah Code Ann. Section 59-12-103.

[~~A. Definitions.~~

~~1. "Interstate" means a transmission that originates in this state but terminates in another state, or a transmission that originates in another state but terminates in this state.~~

~~2. "Intrastate" means a transmission that originates and terminates in this state, even if the route of the transmission signal itself leaves and reenters the state. Prepaid telephone services or service contracts are presumed to be used for intrastate telephone services unless the service contract is sold exclusively for use in interstate communications.~~

~~3. "Two-way transmission" includes any services provided over a public switched network.~~

~~B.~~](1) Taxable [~~telephone~~]telecommunications service charges include[~~:~~

~~1.~~] subscriber access fees[~~;~~].

[~~2. charges for optional telephone features, such as call waiting, caller ID, and call forwarding; and~~

~~3. nonrecurring charges that are ordinarily charged to subscribers only once or only under exceptional circumstances, including charges to:~~

~~a) establish, change, or disconnect telephone service or optional features; and~~

~~b) repair telephone equipment that retains its character as tangible personal property.~~

~~C.~~](2) Nontaxable telecommunications charges include:

[~~1.~~](a) refundable subscriber deposits, interest, and late payment penalties;

[~~2.~~](b) charges for interstate [~~long distance or toll~~]calls;

[~~3.~~](c) [~~telephone~~]telecommunications answering services received or relayed by a human operator;

[~~4.~~](d) charges to repair subscriber equipment that is regarded as real property; and

[~~5.~~](e) charges levied on subscribers to fund or subsidize special [~~telephone~~]telecommunications services, including 911 service, special communications services for the deaf, and special [~~telephone~~]telecommunications service for low income subscribers[~~;~~].[

~~6. contributions in aid of construction, land development fees, payments in lieu of land development fees, and special plant construction and relocation charges; and~~

~~7. charges for one-way pager services.~~]

KEY: charities, tax exemptions, religious activities, sales tax
Date of Enactment or Last Substantive Amendment: [~~August 18, 2008~~]2009
Notice of Continuation: March 13, 2007
Authorizing, and Implemented or Interpreted Law: 59-12-103

♦ ♦

Tax Commission, Auditing
R865-19S-92
Computer software and Other Related Transactions Pursuant to Utah Code Ann. Section 59-12-103

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32016
FILED: 10/09/2008, 13:09

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Amendment is necessary because of statutory changes occurring from H.B. 206 (2008). (DAR NOTE: H.B. 206 (2008) is found at Chapter 384, Laws of Utah 2008, and will be effective 01/01/2009.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes language that has been placed in statute.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-103

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Any fiscal impacts were considered in H.B. 206 (2008).

❖ LOCAL GOVERNMENTS: None--Any fiscal impacts were considered in H.B. 206 (2008).

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any fiscal impacts were considered in H.B. 206 (2008).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The deleted language now appears in statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impact as those would have been considered with H.B. 206 (2008). D'Arcy Dixon, Commissioner

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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2009

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.
R865-19S. Sales and Use Tax.
R865-19S-92. Computer Software and Other Related Transactions Pursuant to Utah Code Ann. Section 59-12-103.

[~~A.~~](1) "Computer-generated output" means the microfiche, microfilm, paper, discs, tapes, molds, or other tangible personal property generated by a computer.

[~~B. The sale, rental or lease of prewritten computer software constitutes a sale of tangible personal property and is subject to the sales or use tax regardless of the form in which the software is purchased or transferred.~~

~~C.~~](2) The sale, rental or lease of custom computer software constitutes a sale of personal services and is exempt from the sales or use tax, regardless of the form in which the software is purchased or transferred. Charges for services such as software maintenance, consultation in connection with a sale or lease, enhancements, or upgrading of custom software are not taxable.

[~~D.~~](3) The sale of computer generated output is subject to the sales or use tax if the primary object of the sale is the output and not the services rendered in producing the output.

KEY: charities, tax exemptions, religious activities, sales tax
Date of Enactment or Last Substantive Amendment: [~~August 18, 2008~~]2009
Notice of Continuation: March 13, 2007
Authorizing, and Implemented or Interpreted Law: 59-12-103

♦ ♦

Tax Commission, Auditing
R865-19S-113
Sales Tax Obligations of Jeep, Snowmobile, Aircraft, and Boat Tour Operators, River Runners, Outfitters, and Other Sellers Providing Similar Services Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-107

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32012
FILED: 10/09/2008, 11:43

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment is necessary because of statutory changes caused by H.B. 206 (2008). (DAR NOTE: H.B. 206 (2008) is found at Chapter 384, Laws of Utah 2008, and will be effective 01/01/2009.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes language relating to when an aircraft or boat tour operator is required to collect sales tax since that has been replaced by different statutory language.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-103

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any fiscal impacts were considered in H.B. 206 (2008).
❖ LOCAL GOVERNMENTS: None--Any fiscal impacts were considered in H.B. 206 (2008).
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any fiscal impacts were considered in H.B. 206 (2008).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Statutory language indicates the sales tax responsibilities of aircraft and boat tour operators.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts as these would have been considered with H.B. 206 (2008). D'Arcy Dixon, Commissioner

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SALT LAKE CITY UT 84134, or
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DIRECT QUESTIONS REGARDING THIS RULE TO:
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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2009

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.
R865-19S. Sales and Use Tax.
R865-19S-113. Sales Tax Obligations of [~~Jeep, Snowmobile,~~]Aircraft[~~,~~] and Boat Tour Operators, [~~River Runners, Outfitters, ~~]and Other Sellers Providing Similar Services Pursuant to Utah Code Ann. [~~Sections~~]Section 59-12-103[~~ and 59-12-107~~].

(1) "Federal airway" shall be identical to the definition of Class E airspace in 14 C.F.R. 71.71 (2006), which is incorporated by reference.

[~~(2) Except as provided in Subsections (3) and (4), the provisions of this rule apply to the imposition of sales and use tax under Section 59-12-103 on amounts paid or charged as admission or user fees by jeep, snowmobile, aircraft and boat tour operators, river runners, outfitters, and other sellers providing similar services.~~

~~(3)~~](2) Amounts paid or charged for helicopter, airplane, or other aircraft tours that enter into airspace designated by the Federal Aviation Administration as a federal airway during the tour are exempt from the sales and use tax.

(a) The exemption described in Subsection [~~(3)~~](2) does not apply if the only time the aircraft enters a federal airway is prior to the commencement of the tour or after the tour ends.

(b) A tour is deemed to occur from the time a paying customer is picked up to the time the paying customer is dropped off at the final destination point.

[~~(4)~~](3) Amounts paid or charged for boat tours, scenic cruises, or other similar activities on the waters of the state are exempt from sales and use tax if the waters on which the tour, cruise, or other similar activity operates are used, by themselves or in connection with other waters, as highways for interstate commerce.[

~~(5) If payment for a service provided by a seller described in (2) occurs in Utah and the service originates or terminates in Utah, the seller shall collect Utah sales and use tax on the entire amount of the transaction.~~

~~(6) If payment for a service provided by a seller described in (2) occurs outside Utah and the entire service occurs in Utah, the seller shall collect Utah sales and use tax on the entire amount of the transaction.~~

~~(7) If payment for a service provided by a seller described in (2) occurs outside Utah and the service originates or terminates outside Utah, the seller is not required to collect Utah sales and use tax on the transaction.~~

~~(8) Payment occurs in Utah if the purchaser:~~
~~(a) while at a business location of the seller in the state, presents payment to the seller; or~~
~~(b) does not meet the criteria under (8)(a) and is billed for the service at an address within the state.~~
~~(9) For purposes of this rule, there is a rebuttable presumption that payment for a service provided by a seller described in (2) occurs in Utah.~~]

KEY: charities, tax exemptions, religious activities, sales tax
Date of Enactment or Last Substantive Amendment: [~~August 18, 2008~~]2009
Notice of Continuation: March 13, 2007
Authorizing, and Implemented or Interpreted Law: 59-12-103; 59-12-107

♦ ♦

Tax Commission, Auditing
R865-19S-119
Certain Transactions Involving Food and Lodging Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32013
FILED: 10/09/2008, 12:01

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The section is removed because the language of the rule has been superseded by H.B. 206 (2008). (DAR NOTE: H.B. 206 (2008) is found at Chapter 384, Laws of Utah 2008, and will be effective 01/01/2009.)

SUMMARY OF THE RULE OR CHANGE: The section is removed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-12-103 and 59-12-104

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any fiscal impacts were considered in H.B. 206 (2008).
❖ LOCAL GOVERNMENTS: None--Any fiscal impacts were considered in H.B. 206 (2008).
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any fiscal impacts were considered in H.B. 206 (2008).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Vendors are now subject to statutory language that indicates how and if these transactions are subject to sales tax.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated impacts as these would have been considered with H.B. 206 (2008). D'Arcy Dixon, Commissioner

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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2009

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.
R865-19S. Sales and Use Tax.
[~~R865-19S-119. Certain Transactions Involving Food and Lodging Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104.~~
~~A. The provisions of this rule apply to a seller that:~~
~~1. is not a restaurant; and~~
~~2. provides a purchaser both food and lodging.~~
~~B. If a seller does not separately state an amount for tax applicable to food on the invoice, the seller must:~~
~~1. pay sales and use tax on the food at the time the seller purchases the food; and~~
~~2. include the food in the base that is subject to transient room tax.~~
~~C. Subject to D., if a seller separately states an amount for tax applicable to food on the invoice, the seller:~~
~~1. may purchase the food tax exempt from sales and use tax as a sale for resale; and~~
~~2. may not include the food in the base that is subject to transient room tax.~~
~~D. A seller that separately states an amount for tax applicable to food on the invoice must ensure that those amounts are accurately reflected in the seller's records.~~]

KEY: charities, tax exemptions, religious activities, sales tax
Date of Enactment or Last Substantive Amendment: [~~August 18, 2008~~]2009
Notice of Continuation: March 13, 2007
Authorizing, and Implemented or Interpreted Law: 59-12-103; 59-12-104

♦ ♦

Tax Commission, Auditing
R865-21U-3
Liability of Retailers Pursuant to Utah Code Ann. Section 59-12-107

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32033
FILED: 10/13/2008, 13:46

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Sections 59-12-102 and 59-12-107 have recently been amended to include the substance of this section per S.B. 147 (2003 General Session). (DAR NOTE: S.B. 147 (2003) is found at Chapter 312, Laws of Utah 2003, and was effective 07/01/2004.)

SUMMARY OF THE RULE OR CHANGE: The section is removed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-107

ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: None--The removed provisions are contained in statute.
- LOCAL GOVERNMENTS: None--The removed provisions are contained in statute.
- SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The removed provisions are contained in statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The removed provisions are contained in statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--The removed provisions are contained in statute. D'Arcy Dixon, Commissioner

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210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2009

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.
R865-21U. Use Tax.
[~~R865-21U-3. Liability of Retailers Pursuant to Utah Code Ann. Section 59-12-107.~~

~~A. Retailers, as defined by the act, are responsible for the collection of the tax from the purchaser and should give the purchaser a receipt thereof.~~

~~B. An example of a retailer would include a manufacturer's representative or a magazine subscription solicitor located within this state and obtaining orders which are in turn shipped by the manufacturer or publisher to the customer in Utah.~~

~~C. A retailer is engaged in business in this state if any activity is conducted by him or his agents, as defined above, with the object of gain, benefit, or advantage either direct or indirect whether qualified or admitted to do business or not.~~

~~D. When tangible personal property is sold in interstate commerce for use or consumption in this state and the seller is engaged in the business of selling such tangible personal property in this state for use or consumption and delivery is made in this state, the sale is subject to use tax. The sale is taxable regardless of the fact that the purchaser's order may specify that the goods are to be manufactured or produced by the seller at a point outside this state and shipped directly to the purchaser from the point of origin. The seller is required to report all such transactions and collect and remit to this state the use tax on all taxable sales. If these conditions are met, it is immaterial that the contract of sale is closed by acceptance outside the state or that the contract is made before the property is brought into the state.~~

~~E. Delivery takes place in this state when physical possession of the tangible personal property is actually transferred to the buyer within this state. Also, when the tangible personal property is placed in the mail at a point outside this state and directed to the buyer in this state or placed on board a carrier at a point outside this state (or otherwise) and directed to the buyer in this state, delivery takes place in Utah.~~

]KEY: taxation, user tax
Date of Enactment or Last Substantive Amendment: [~~June 29, 2004~~]2009
Notice of Continuation: March 7, 2006
Authorizing, and Implemented or Interpreted Law: 59-12-107

Tax Commission, Auditing
R865-21U-15
Automobile, Construction Equipment and Other Merchandise Purchased from Out-Of-State Vendors Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-107

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32010
FILED: 10/09/2008, 10:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The section is removed since H.B. 34 (2007) codified this language. Accordingly, the section is unnecessary. (DAR NOTE: H.B. 34 (2007) is found at Chapter 295, Laws of Utah 2007, and was effective 07/01/2007.)

SUMMARY OF THE RULE OR CHANGE: The section is removed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-12-103 and 59-12-107

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any fiscal impact was considered in H.B. 34 (2007).
❖ LOCAL GOVERNMENTS: None--Any fiscal impact was considered in H.B. 34 (2007).
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any fiscal impact was considered in H.B. 34 (2007).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This language has merely been codified.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--Any fiscal impact was considered in H.B. 34 (2007). D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2009

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.
R865-21U. Use Tax.
[~~R865-21U-15. Automobiles, Construction Equipment, and Other Merchandise Purchased From Out-Of-State Vendors Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-107.~~

~~A. Automobiles, construction equipment, and other merchandise purchased by Utah residents from out-of-state dealers are subject to Utah use tax even if incidental first use occurs outside the state. For example, a salesman whose residence is in Utah has a territory which extends into other states. He purchases a car while out of state and continues his itinerary. Upon return to Utah, the car is subject to the registration laws of this state, together with a use tax, if applicable, to be paid at time of registration. If tax was paid in another state, credit shall be allowed for the tax paid in accordance with Utah Code Ann. Section 59-12-104.~~

]KEY: taxation, user tax
Date of Enactment or Last Substantive Amendment: [~~June 29, 2004~~]2009
Notice of Continuation: March 7, 2006
Authorizing, and Implemented or Interpreted Law: 59-12-103; 59-12-107

♦ ——————————————— ♦

Tax Commission, Motor Vehicle
R873-22M-20
Aircraft Registration Pursuant to Utah Code Ann. Sections 72-10-102, 72-10-109 through 72-10-112

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32045
FILED: 10/14/2008, 15:01

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 365 (2008) permits the Tax Commission to define in rule the contents of the database maintained by the Division of Aeronautics and used for registration of aircraft; and replaces the dollar-based aircraft registration fee with a value-based fee. (DAR NOTE: H.B. 365 (2008) is found at Chapter 206, Laws of Utah 2008, and will be effective 01/01/2009.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment removes language relating to a dollar-based registration fee since that is now a value-based fee; and lists the data that must be included on the database maintained by the Division of Aeronautics and used for registration of aircraft.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-10-102 and 72-10-109 through 72-10-112

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any fiscal impact was considered in H.B. 365 (2008).
❖ LOCAL GOVERNMENTS: None--Any fiscal impact was considered in H.B. 365 (2008).
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any fiscal impact was considered in H.B. 365 (2008).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The aircraft registration fee and registration process has been changed statutorily for all aircraft owner.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts as they were considered in H.B. 365 (2008). D'Arcy Dixon, Commissioner

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

TAX COMMISSION
MOTOR VEHICLE
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2009

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R873. Tax Commission, Motor Vehicle.
R873-22M. Motor Vehicle.
R873-22M-20. Aircraft Registration Pursuant to Utah Code Ann. Sections 72-10-102, 72-10-109 through 72-10-112.

[~~A. "Aircraft" is as defined in Section 72-10-102.~~

~~1. Aircraft includes fixed wing airplanes, balloons, airships, and any other contrivance subject to the registration requirements of the Federal Aviation Administration (FAA).~~

~~2. Aircraft does not include ultralight vehicles or hang gliders.~~

~~B. For purposes of this rule, all aircraft that meet requirements for registration by the FAA are subject to annual registration in this state. FAA registration documents must be made available for review at the time application for state registration is made.~~

~~C.~~](1) The registration period for aircraft is from January 1 through December 31.[~~Newly purchased aircraft and aircraft moved to Utah from another state shall be registered immediately. A grace period to January 31 is allowed for renewal registrations.~~]

(2) The average wholesale value of an aircraft is obtained from the "average wholesale" column listed in the fall edition of the Aircraft Bluebook Price Digest in the year preceding the year of registration for all aircraft listed in that publication.

(3) The database maintained by the Division of Aeronautics shall include the following information for each aircraft:

(a) the name and address of the owner of the aircraft;

(b) the airport where the aircraft is hangered;

(c) the FAA number of the aircraft;

(d) the aircraft manufacturer or builder;

(e) the year of manufacture or the year the aircraft was completed and certified for air worthiness by the FAA;

(f) the aircraft model as identified by the manufacturer or builder; and

(g) the aircraft serial number.

[~~D. A registration fee shall be collected at the time of registration. This fee shall be paid every time the registration changes and every time the registration is renewed.~~

~~E. If an aircraft is purchased or moved to Utah during the year and newly registered in Utah, the registration fee shall be prorated based on the number of months remaining in the registration period.~~

~~1. For Purposes of determining the number of months remaining in the registration period, the month during which the aircraft is originally registered shall be considered a full month.~~

~~2. For example, if an aircraft is newly registered in Utah on July 31, 50 percent of the registration fee shall be paid at the time of original registration.~~

~~F. Aircraft assessed as part of an airline by the Tax Commission are exempt from the registration requirements of Section 72-10-109. Aircraft centrally assessed by the Tax Commission and not part of an airline remain subject to taxation as property and are subject to the registration requirements of Section 72-10-109.~~

~~G.~~](4) Aircraft not legally registered are subject to seizure and impound under the provisions of Section 72-10-112.

[~~H.~~](5) The registration certificate shall be surrendered upon the sale of an aircraft or at the time of registration renewal. A duplicate certificate may be obtained for a fee.

[~~I.~~](6) The Utah decal shall be displayed on the registered aircraft in accordance with instructions given with the decal. Decals must be applied and maintained in a manner that permits identification of the calendar-year expiration date and the registration number. In the event of loss or damage, a decal replacement shall be obtained for a fee.

KEY: taxation, motor vehicles, aircraft, license plates
Date of Enactment or Last Substantive Amendment: [~~June 27, 2008~~]2009
Notice of Continuation: March 12, 2007
Authorizing, and Implemented or Interpreted Law: 72-10-109 through 72-10-112; 72-10-102

Tax Commission, Motor Vehicle
R873-22M-23
Registration Information Update for Vintage Vehicle Special Group License Plates Pursuant to Utah Code Ann. Section 41-1a-1209

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32037
FILED: 10/13/2008, 14:46

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The section is removed since H.B. 373 (2008) replaced registration information updates for vintage vehicles with the requirement to register annually. (DAR NOTE: H.B. 373 (2008) is found at Chapter 210, Laws of Utah 2008, and will be effective 01/01/2009.)

SUMMARY OF THE RULE OR CHANGE: The section is removed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-1a-1209

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any impacts were considered in H.B. 373 (2008).
❖ LOCAL GOVERNMENTS: None--Any impacts were considered in H.B. 373 (2008).
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any impacts were considered in H.B. 373 (2008).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Owners of vintage vehicles are now required to register those vehicles annually.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated costs as it is understood any impacts were considered with H.B. 373 (2008). D'Arcy Dixon, Commissioner

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TAX COMMISSION
MOTOR VEHICLE
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2009

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R873. Tax Commission, Motor Vehicle.
R873-22M. Motor Vehicle.
~~[R873-22M-23. Registration Information Update for Vintage Vehicle Special Group License Plates Pursuant to Utah Code Ann. Section 41-1a-1209.~~
~~A. The registration information update for vintage vehicle plates required by Section 41-1a-1209 shall be due on July 1, 1995, and every five years thereafter.~~

]KEY: taxation, motor vehicles, aircraft, license plates
Date of Enactment or Last Substantive Amendment: [~~June 27, 2008~~]2009
Notice of Continuation: March 12, 2007
Authorizing, and Implemented or Interpreted Law: 41-1a-1209

♦ ♦

Tax Commission, Property Tax
R884-24P-27
Standards for Assessment Level and Uniformity of Performance Pursuant to Utah Code Ann. Sections 59-2-704 and 59-2-704.5

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32063
FILED: 10/15/2008, 14:21

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment is a result of a recent review of Section 59-2-303.1 and standards set by the International Association of Assessing Officers.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment changes the term "reappraisal" to a "detailed review of property characteristics" since the term "reappraisal", as used in this rule, is inaccurate; and modifies the standards for measurement of dispersion to more closely conform to standards set by the International Association of Assessing Officers (IAAO).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-2-704 and 59-2-704.5

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--The proposed amendments match Tax Commission practice.
❖ LOCAL GOVERNMENTS: None--The proposed amendments match Tax Commission practice.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The proposed amendments match Tax Commission practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--County assessors already meet the standards revised in the proposed amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No impact. R. B. Johnson, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
PROPERTY TAX
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2009

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R884. Tax Commission, Property Tax.
R884-24P. Property Tax.
R884-24P-27. Standards for Assessment Level and Uniformity of Performance Pursuant to Utah Code Ann. Sections 59-2-704 and 59-2-704.5.

[~~A.~~](1) Definitions.

[~~1.~~](a) "Coefficient of dispersion (COD)" means the average deviation of a group of assessment ratios taken around the median and expressed as a percent of that measure.

[~~2.~~](b) "Coefficient of variation (COV)" means the standard deviation expressed as a percentage of the mean.

[~~3.~~](c) "Division" means the Property Tax Division of the [~~State Tax Commission~~]commission.

[~~4.~~](d) "Nonparametric" means data samples that are not normally distributed.

[~~5.~~](e) "Parametric" means data samples that are normally distributed.

[~~6.~~](f) "Urban counties" means counties classified as first or second class counties pursuant to Section 17-50-501.

[~~B.~~](2) The [~~Tax Commission~~]commission adopts the following standards of assessment performance.

[~~1.~~](a) For assessment level in each property class, subclass, and geographical area in each county, the measure of central tendency shall meet one of the following measures.

[~~a)~~](i) The measure of central tendency shall be within 10 percent of the legal level of assessment.

[~~b)~~](ii) The 95 percent confidence interval of the measure of central tendency shall contain the legal level of assessment.

[~~2.~~](b) For uniformity of the property [~~being appraised under the cyclical appraisal plan for the current year~~]assessments in each class of property for which a detailed review is conducted during the current year, the measure of dispersion shall be within the following limits.

[~~a)~~](i) In urban counties:

[~~(1)~~](A) a COD of 15 percent or less for primary residential [~~and commercial~~]property, and 20 percent or less for commercial property, vacant land, and secondary residential property; and

[~~(2)~~](B) a COV of 19 percent or less for primary residential [~~and commercial~~]property, and 25 percent or less for commercial property, vacant land, and secondary residential property.

[~~b)~~](ii) In rural counties:

[~~(1)~~](A) a COD of 20 percent or less for primary residential [~~and commercial~~]property, and 25 percent or less for commercial property, vacant land, and secondary residential property; and

[~~(2)~~](B) a COV of 25 percent or less for primary residential [~~and commercial~~]property, and 31 percent or less for commercial property, vacant land, and secondary residential property.

(iii) For a rural or small jurisdiction with limited development, or for a jurisdiction with a depressed market, the county assessor may petition the division for a five percentage point increase in the COD or COV for one year only. After sufficient examination, the division may determine that a one-year expansion of the COD or COV is appropriate.

[~~3.~~](c) Statistical measures.

[~~a)~~](i) The measure of central tendency shall be the mean for parametric samples and the median for nonparametric samples.

[~~b)~~](ii) The measure of dispersion shall be the COV for parametric samples and the COD for nonparametric samples.

[~~c)~~](iii) To achieve statistical accuracy in determining assessment level under [~~B.1.~~]Subsection (2)(a) and uniformity under [~~B.2.~~]Subsection (2)(b) for any property class, subclass, or geographical area, the minimum sample size shall consist of 10 or more ratios.

[~~C.~~](3) Each year the [~~Division~~]division shall conduct and publish an assessment-to-sale ratio study to determine if each county complies with the standards in [~~B~~]Subsection (2).

[~~1.~~](a) To meet the minimum sample size, the study period may be extended.

[~~2.~~](b) A smaller sample size may be used if:

[~~a)~~](i) that sample size is at least 10 percent of the class or subclass population; or

[~~b)~~](ii) both the [~~Division~~]division and the county agree that the sample may produce statistics that imply corrective action appropriate to the class or subclass of property.

[~~3.~~](c) If the [~~Division~~]division, after consultation with the counties, determines that the sample size does not produce reliable statistical data, an alternate performance evaluation may be conducted, which may result in corrective action. The alternate performance evaluation shall include review and analysis of the following:

[~~a)~~](i) the county's procedures for collection and use of market data, including sales, income, rental, expense, vacancy rates, and capitalization rates;

[~~b)~~](ii) the county-wide land, residential, and commercial valuation guidelines and their associated procedures for maintaining current market values;

[~~c)~~](iii) the accuracy and uniformity of the county's individual property data through a field audit of randomly selected properties; and

[~~d)~~](iv) the county's level of personnel training, ratio of appraisers to parcels, level of funding, and other workload and resource considerations.

[~~4.~~](d) All input to the sample used to measure performance shall be completed by March 31 of each study year.

[~~5.~~](e) The [~~Division~~]division shall conduct a preliminary annual assessment-to-sale ratio study by April 30 of the study year, allowing counties to apply adjustments to their tax roll prior to the May 22 deadline.

[~~6.~~](f) The [~~Division~~]division shall complete the final study immediately following the closing of the tax roll on May 22.

[~~D.~~](4) The [~~Division~~]division shall order corrective action if the results of the final study do not meet the standards set forth in [~~B~~]Subsection (2).

[~~1.~~](a) Assessment level adjustments, or factor orders, shall be calculated by dividing the legal level of assessment by one of the following:

[~~a)~~](i) the measure of central tendency, if the uniformity of the ratios meets the standards outlined in [~~B.2.~~]Subsection (2)(b); or

[~~b)~~](ii) the 95 percent confidence interval limit nearest the legal level of assessment, if the uniformity of the ratios does not meet the standards outlined in [~~B.2~~]Subsection (2)(b).

[~~2.~~](b) Uniformity adjustments[~~, or reappraisal orders,~~]or other corrective action shall [~~only apply to the property being appraised under the cyclical appraisal plan for the current year. A reappraisal~~

~~order shall be issued~~]be ordered if the property fails to meet the standards outlined in [~~B.2~~]Subsection (2)(b).[~~ Prior to implementation of reappraisal orders, counties shall submit a preliminary report to the Division that includes the following:~~

~~a) an evaluation of why the standards of uniformity outlined in B.2. were not met; and~~

~~b) a plan for completion of the reappraisal that is approved by the Division.~~

~~3.~~](c) A corrective action order may contain language requiring a county to create, modify, or follow its [~~cyclical appraisal~~]five-year plan for a detailed review of property characteristics.

[~~4.~~](d) All corrective action orders shall be issued by June 10 of the study year, or within five working days after the completion of the final study, whichever is later.

[~~E.~~](5) The [~~Tax Commission~~]commission adopts the following procedures to insure compliance and facilitate implementation of ordered corrective action.

[~~1.~~](a) Prior to the filing of an appeal, the [~~Division~~]division shall retain authority to correct errors and, with agreement of the affected county, issue amended orders or stipulate with the affected county to any appropriate alternative action without [~~Tax Commission~~]commission approval. Any stipulation by the [~~Division~~]division subsequent to an appeal is subject to [~~Tax Commission~~]commission approval.

[~~2.~~](b) A county receiving a corrective action order resulting from this rule may file and appeal with the [~~Tax Commission~~]commission pursuant to [~~Tax Commission~~]rule R861-1A-11.

[~~3.~~](c) A corrective action order will become the final [~~Tax Commission~~]commission order if the county does not appeal in a timely manner, or does not prevail in the appeals process.

[~~4.~~](d) The [~~Division~~]division may assist local jurisdictions to ensure implementation of any corrective action orders by the following deadlines.

[~~a)~~](i) Factor orders shall be implemented in the current study year prior to the mailing of valuation notices.

[~~b)~~](ii) Other corrective action[~~, including reappraisal orders,~~] shall be implemented prior to May 22 of the year following the study year.[~~ The preliminary report referred to in D.2. shall be completed by November 30 of the current study year.~~]

[~~5.~~](e) The [~~Division~~]division shall complete audits to determine compliance with corrective action orders as soon after the deadlines set forth in [~~E.4.~~]Subsection (5)(d) as practical. The [~~Division~~]division shall review the results of the compliance audit with the county and make any necessary adjustments to the compliance audit within 15 days of initiating the audit. These adjustments shall be limited to the analysis performed during the compliance audit and may not include review of the data used to arrive at the underlying factor order. After any adjustments, the compliance audit will then be given to the [~~Tax Commission~~]commission for any necessary action.

[~~6.~~](f) The county shall be informed of any adjustment required as a result of the compliance audit.

KEY: taxation, personal property, property tax, appraisals
Date of Enactment or Last Substantive Amendment: [~~March 28, 2008~~]2009
Notice of Continuation: March 12, 2007
Authorizing, and Implemented or Interpreted Law: 59-2-704; 59-2-704.5

♦ ♦

Tax Commission, Property Tax
R884-24P-47
Uniform Tax on Aircraft Pursuant to Utah Code Ann. Sections 59-2-404, 59-2-1005, 59-2-1302, and 59-2-1303

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32036
FILED: 10/13/2008, 14:39

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The section is removed since H.B. 365 (2008) replaced the value-based property tax on aircraft with a uniform fee. Accordingly, this section no longer applies. (DAR NOTE: H.B. 365 (2008) is found at Chapter 206, Laws of Utah 2008, and will be effective 01/01/2009.)

SUMMARY OF THE RULE OR CHANGE: The section is removed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-2-404, 59-2-1005, 59-2-1302, and 59-2-1303

ANTICIPATED COST OR SAVINGS TO:
- ❖ THE STATE BUDGET: None--Any fiscal impact was considered in H.B. 365 (2008).
- ❖ LOCAL GOVERNMENTS: None--Any fiscal impact was considered in H.B. 365 (2008).
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any fiscal impact was considered in H.B. 365 (2008).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The section is removed because the underlying statute has changed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts as any impact should have been considered with H.B. 365 (2008). D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
PROPERTY TAX
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2009

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R884. Tax Commission, Property Tax.
R884-24P. Property Tax.
[R884-24P-47. Uniform Tax on Aircraft Pursuant to Utah Code Ann. Sections 59-2-404, 59-2-1005, 59-2-1302, and 59-2-1303.

~~A. Registration of aircraft requires payment of a uniform tax in lieu of ad valorem personal property tax. This tax shall be collected by the county assessor at the time of registration at the rate prescribed in Section 59-2-404.~~

~~B. The average wholesale market value of the aircraft is the arithmetic mean of the average low wholesale book value and the average high wholesale book value. This average price will be used as the basis for the initial assessment. These amounts are obtained from the fall edition of the Aircraft Bluebook Price Digest in the year preceding the year of registration for all aircraft listed in that publication.~~

~~1. The average wholesale market value of aircraft subject to registration but not shown in the Aircraft Bluebook Price Digest will be assessed according to the annual depreciation schedule for aircraft valuation set forth in Tax Commission rule R884-24P-33, "Personal Property Valuation Guides and Schedules."~~

~~2. Instructions for interpretation of codes are found inside the Aircraft Bluebook Price Digest.~~

~~a) Average low wholesale values are found under the heading "Average equipped per base avg change/invtry."~~

~~b) Average high wholesale values are found under the heading "change mktbl."~~

~~c) Aircraft values not in accordance with "average" may be adjusted by the assessor following the instructions in the Bluebook. Factors that have the greatest impact on value include: high engine time, air worthiness directives not complied with, status of annual inspection, crash damage, paint condition, and interior condition.~~

~~C. The uniform tax is due each year the aircraft is registered in Utah. If the aircraft is sold within the same registration period, no additional uniform tax shall be due. However, the purchaser shall pay any delinquent tax as a condition precedent to registration.~~

~~D. If an aircraft is purchased or moved to Utah during the year and newly registered in Utah, the uniform tax shall be prorated based on the number of months remaining in the registration period.~~

~~1. Any portion of a month shall be counted as a full month. For example, if registration is required during July, 50 percent of the uniform tax shall be paid as a condition of registration.~~

~~2. If the aircraft is moved to Utah during the year, and property tax was paid to another state prior to moving the aircraft into Utah, any property tax paid shall be allowed as a credit against the prorated uniform tax due in Utah.~~

~~a) This credit may not be refunded if the other state property tax exceeds the uniform tax due in Utah for the comparable year.~~

~~b) Proof of payment shall be submitted before credit is allowed.~~

~~E. The uniform tax collected by county assessors shall be distributed to the taxing districts of the county in which the aircraft is located as shown on the registration application. If the aircraft is registered in a county other than the county of the aircraft location, the tax collected shall be forwarded to the appropriate county within five working days.~~

~~F. The Tax Commission shall supply registration forms and numbered decals to the county assessors. Forms to assess the uniform tax shall be prepared by the counties each year. The Tax Commission shall maintain an owners' data base and supply the counties with a list of registrations by county after the first year and shall also supply registration renewal forms preprinted with the prior year's registration information.~~

~~G. The aircraft owner or person or entity in possession thereof shall immediately provide access to any aircraft hangar or other storage area or facility upon request by the assessor or the assessor's designee in order to permit the determination of the status of registration of the aircraft, and the performance of any other act in furtherance of the assessor's duties.~~

~~H. The provisions applicable to securing or collecting personal property taxes set forth in Sections 59-2-1302 and 59-2-1303 shall apply to the collection of delinquent uniform taxes.~~

~~I. If the aircraft owner and the county assessor cannot reach agreement concerning the aircraft valuation, the valuation may be appealed to the county board of equalization under Section 59-2-1005.~~

]**KEY: taxation, personal property, property tax, appraisals**
Date of Enactment or Last Substantive Amendment: March 28, 2008
Notice of Continuation: March 12, 2007
Authorizing, and Implemented or Interpreted Law: 59-2-404; 59-2-1005; 59-2-1302; 59-2-1303

Tax Commission, Property Tax
R884-24P-53
2008 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32044
FILED: 10/14/2008, 13:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment annually updates the agricultural productive values to be applied by county assessors to land qualifying for valuation and assessment under the Farmland Assessment Act (FAA). The values are recommended to the Commission by the State Farmland Evaluation Advisory Committee, which meets under the authority of Section 59-2-514.

SUMMARY OF THE RULE OR CHANGE: Section 59-2-515 authorizes the commission to promulgate rules regarding the Property Tax Act, Part 5, "Farmland Assessment Act". Section 59-2-514 authorizes the commission to receive valuation recommendations from the State Farmland Advisory Committee for implementation as outlined in Section R884-24P-53.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-515

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The amount of savings or cost to state government is undetermined. The state receives tax revenue for assessing and collecting and for the Uniform School Fund based on increased or decreased real and personal property valuation, including property assessed under the FAA (greenbelt). Property valuation (taxable value) changes have been recommended by class and by county. This year, 126 class/county valuations will increase, 78 will decrease and 133 will remain unchanged. No total cost or savings could be calculated without an exhaustive study of farmland acreage in each county by class, a listing of property newly-qualified for FAA assessment during 2009, and a listing of property no longer qualifying which is removed from greenbelt during 2008. However, it is estimated that the overall change is minimal due to this amendment.

❖ LOCAL GOVERNMENTS: The amount of saving or cost to local government is undetermined. Local governmental entities receive tax revenue based on increased or decreased property valuation, including property on greenbelt. Property valuation changes have been recommended by class and by county. This year, 126 class/county valuations will increase, 78 will decrease and 133 will remain unchanged. No total cost or savings could be calculated without an exhaustive study of farmland acreage in each county by class, a listing of property newly-qualified for greenbelt during 2009, and a listing of property no longer qualifying which is removed from greenbelt during 2008. However, it is estimated that the overall change is minimal due to this amendment. County assessor offices statewide will be required to input the new value indicators into their computer systems to be applied against the acreage for individual properties. This input process is easily accomplished on an annual basis and represents no significant cost in time or money to the assessors' offices.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Each property owner with property eligible for assessment under the FAA may see a change in value, depending on property class and situs county as 126 such value indicators will increase, 78 will decrease and 133 will not change. The effect on the property owner will be valuation increase, decrease or no change depending on the mix of property types and situs. No aggregate compliance cost can be determined without an exhaustive study of farmland acreage in each county by class, a listing of property newly-qualified for greenbelt during 2009, and a listing of property no longer qualifying which is removed from greenbelt during 2008. In addition, the compliance cost will further be altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Each property owner with property eligible for assessment under the FAA may see a change in value, depending on property class and situs county as 126 such value indicators will increase, 78 will decrease and 133 will not change. The effect on the property owner will be valuation increase, decrease or no change depending on the mix of property types and situs. No aggregate compliance cost can be determined without an exhaustive study of farmland acreage in each county by class, a listing of property newly-qualified for greenbelt during 2009, and a listing of property no longer qualifying which is removed from greenbelt during 2008. In addition, the compliance cost will further be altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is estimated the overall change due to this amendment is minimal. D'Arcy Dixon, Commissioner

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

TAX COMMISSION
PROPERTY TAX
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2009

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R884. Tax Commission, Property Tax.
R884-24P. Property Tax.
R884-24P-53. [~~2008~~]2009 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515.

(1) Each year the Property Tax Division shall update and publish schedules to determine the taxable value for land subject to the Farmland Assessment Act on a per acre basis.

(a) The schedules shall be based on the productivity of the various types of agricultural land as determined through crop budgets and net rents.

(b) Proposed schedules shall be transmitted by the Property Tax Division to county assessors for comment before adoption.

(c) County assessors may not deviate from the schedules.

(d) Not all types of agricultural land exist in every county. If no taxable value is shown for a particular county in one of the tables, that classification of agricultural land does not exist in that county.

(2) All property defined as farmland pursuant to Section 59-2-501 shall be assessed on a per acre basis as follows:

(a) Irrigated farmland shall be assessed under the following classifications.

(i) Irrigated I. The following counties shall assess Irrigated I property based upon the per acre values listed below:

TABLE 1
Irrigated I

1)	Box Elder	820
2)	Cache	[~~690~~]710
3)	Carbon	[~~540~~]530
4)	Davis	[~~840~~]860
5)	Emery	[~~525~~]510
6)	Iron	[~~815~~]820
7)	Kane	[~~450~~]430
8)	Millard	[~~800~~]810
9)	Salt Lake	[~~705~~]715
10)	Utah	[~~735~~]750
11)	Washington	[~~655~~]670
12)	Weber	[~~800~~]815

(ii) Irrigated II. The following counties shall assess Irrigated II property based upon the per acre values listed below:

TABLE 2
Irrigated II

1)	Box Elder	720
2)	Cache	[~~590~~]610
3)	Carbon	[~~440~~]430
4)	Davis	[~~740~~]760
5)	Duchesne	495
6)	Emery	[~~425~~]410
7)	Grand	[~~410~~]400
8)	Iron	[~~715~~]720
9)	Juab	[~~460~~]450
10)	Kane	[~~350~~]330
11)	Millard	[~~700~~]710
12)	Salt Lake	[~~605~~]615
13)	Sanpete	550
14)	Sevier	[~~570~~]575
15)	Summit	475
16)	Tooele	460
17)	Utah	[~~635~~]650
18)	Wasatch	500
19)	Washington	[~~555~~]570
20)	Weber	[~~700~~]715

(iii) Irrigated III. The following counties shall assess Irrigated III property based upon the per acre values listed below:

TABLE 3
Irrigated III

1)	Beaver	[~~565~~]580
2)	Box Elder	570
3)	Cache	[~~440~~]460
4)	Carbon	[~~290~~]280
5)	Davis	[~~590~~]610
6)	Duchesne	345
7)	Emery	[~~275~~]260
8)	Garfield	[~~220~~]215
9)	Grand	[~~260~~]250
10)	Iron	[~~565~~]570
11)	Juab	[~~310~~]300
12)	Kane	[~~200~~]180
13)	Millard	[~~550~~]560
14)	Morgan	395
15)	Piute	[~~355~~]340
16)	Rich	[~~190~~]180
17)	Salt Lake	[~~455~~]465
18)	San Juan	[~~180~~]175
19)	Sanpete	400
20)	Sevier	[~~420~~]425
21)	Summit	325
22)	Tooele	310
23)	Uintah	[~~385~~]375
24)	Utah	[~~485~~]500
25)	Wasatch	350
26)	Washington	[~~405~~]420
27)	Wayne	[~~335~~]340
28)	Weber	[~~550~~]565

(iv) Irrigated IV. The following counties shall assess Irrigated IV property based upon the per acre values listed below:

TABLE 4
Irrigated IV

1)	Beaver	[~~465~~]480
2)	Box Elder	470
3)	Cache	[~~340~~]360
4)	Carbon	[~~190~~]180
5)	Daggett	[~~220~~]200
6)	Davis	[~~490~~]510
7)	Duchesne	245
8)	Emery	[~~175~~]160
9)	Garfield	[~~120~~]115
10)	Grand	[~~160~~]150
11)	Iron	[~~465~~]470
12)	Juab	[~~210~~]200
13)	Kane	[~~100~~]80
14)	Millard	[~~450~~]460
15)	Morgan	295
16)	Piute	[~~255~~]240
17)	Rich	[~~90~~]80
18)	Salt Lake	[~~355~~]365
19)	San Juan	[~~80~~]75
20)	Sanpete	300
21)	Sevier	[~~320~~]325
22)	Summit	225
23)	Tooele	210
24)	Uintah	[~~285~~]275
25)	Utah	[~~385~~]400
26)	Wasatch	250
27)	Washington	[~~305~~]320
28)	Wayne	[~~235~~]240
29)	Weber	[~~450~~]465

(b) Fruit orchards shall be assessed per acre based upon the following schedule:

TABLE 5
Fruit Orchards

1)	Beaver	[~~640~~]620
2)	Box Elder	[~~695~~]675
3)	Cache	[~~640~~]620
4)	Carbon	[~~640~~]620
5)	Davis	[~~695~~]675
6)	Duchesne	[~~640~~]620
7)	Emery	[~~640~~]620
8)	Garfield	[~~640~~]620
9)	Grand	[~~640~~]620
10)	Iron	[~~640~~]620
11)	Juab	[~~640~~]620
12)	Kane	[~~640~~]620
13)	Millard	[~~640~~]620
14)	Morgan	[~~640~~]620
15)	Piute	[~~640~~]620
16)	Salt Lake	[~~640~~]620
17)	San Juan	[~~640~~]620
18)	Sanpete	[~~640~~]620
19)	Sevier	[~~640~~]620
20)	Summit	[~~640~~]620
21)	Tooele	[~~640~~]620
22)	Uintah	[~~640~~]620
23)	Utah	[~~710~~]690
24)	Wasatch	[~~640~~]620
25)	Washington	[~~760~~]740
26)	Wayne	[~~640~~]620
27)	Weber	[~~695~~]675

(c) Meadow IV property shall be assessed per acre based upon the following schedule:

TABLE 6
Meadow IV

1)	Beaver	[~~255~~]245
2)	Box Elder	[~~250~~]260
3)	Cache	[~~265~~]270
4)	Carbon	130
5)	Daggett	160
6)	Davis	270
7)	Duchesne	165
8)	Emery	[~~130~~]140
9)	Garfield	[~~100~~]105
10)	Grand	[~~125~~]135
11)	Iron	[~~250~~]260
12)	Juab	150
13)	Kane	110
14)	Millard	195
15)	Morgan	[~~185~~]195
16)	Piute	[~~175~~]190
17)	Rich	105
18)	Salt Lake	225
19)	Sanpete	195
20)	Sevier	200
21)	Summit	205
22)	Tooele	185
23)	Uintah	[~~195~~]205
24)	Utah	[~~240~~]250
25)	Wasatch	210
26)	Washington	[~~220~~]230
27)	Wayne	[~~170~~]175
28)	Weber	305

(d) Dry land shall be classified as one of the following two categories and shall be assessed on a per acre basis as follows:

(i) Dry III. The following counties shall assess Dry III property based upon the per acre values listed below:

TABLE 7
Dry III

1)	Beaver	50
2)	Box Elder	[~~85~~]95
3)	Cache	[~~100~~]120
4)	Carbon	50
5)	Davis	50
6)	Duchesne	[~~65~~]55
7)	Garfield	50
8)	Grand	50
9)	Iron	[~~55~~]50
10)	Juab	50
11)	Kane	50
12)	Millard	50
13)	Morgan	65
14)	Rich	50
15)	Salt Lake	[~~55~~]50
16)	San Juan	50
17)	Sanpete	[~~60~~]55
18)	Summit	50
19)	Tooele	50
20)	Uintah	[~~60~~]55
21)	Utah	50
22)	Wasatch	50
23)	Washington	50
24)	Weber	80

(ii) Dry IV. The following counties shall assess Dry IV property based upon the per acre values listed below:

TABLE 8
Dry IV

1)	Beaver	[~~10~~]15
2)	Box Elder	[~~50~~]60
3)	Cache	[~~65~~]85
4)	Carbon	15
5)	Davis	15
6)	Duchesne	[~~30~~]20
7)	Garfield	15
8)	Grand	15
9)	Iron	[~~20~~]15
10)	Juab	15
11)	Kane	15
12)	Millard	15
13)	Morgan	30
14)	Rich	15
15)	Salt Lake	[~~20~~]15
16)	San Juan	15
17)	Sanpete	[~~25~~]20
18)	Summit	15
19)	Tooele	15
20)	Uintah	[~~25~~]20
21)	Utah	15
22)	Wasatch	15
23)	Washington	15
24)	Weber	45

(e) Grazing land shall be classified as one of the following four categories and shall be assessed on a per acre basis as follows:

(i) Graze 1. The following counties shall assess Graze I property based upon the per acre values listed below:

TABLE 9
GR I

1)	Beaver	[~~88~~]75
2)	Box Elder	[~~72~~]80
3)	Cache	[~~75~~]76
4)	Carbon	56
5)	Daggett	60
6)	Davis	66
7)	Duchesne	[~~70~~]71
8)	Emery	[~~70~~]78
9)	Garfield	[~~80~~]83
10)	Grand	[~~76~~]84
11)	Iron	[~~68~~]75
12)	Juab	70
13)	Kane	[~~85~~]81
14)	Millard	[~~84~~]83
15)	Morgan	[~~60~~]68
16)	Piute	[~~87~~]97
17)	Rich	[~~70~~]71
18)	Salt Lake	72
19)	San Juan	[~~72~~]73
20)	Sanpete	69
21)	Sevier	70
22)	Summit	78
23)	Tooele	77
24)	Uintah	[~~74~~]84
25)	Utah	[~~60~~]65
26)	Wasatch	[~~57~~]58
27)	Washington	[~~65~~]72
28)	Wayne	[~~92~~]95
29)	Weber	74

(ii) Graze II. The following counties shall assess Graze II property based upon the per acre values listed below:

TABLE 10
GR II

1)	Beaver	[~~28~~]25
2)	Box Elder	[~~23~~]27
3)	Cache	[~~24~~]25

4)	Carbon	[~~16~~]18
5)	Daggett	[~~17~~]18
6)	Davis	[~~21~~]22
7)	Duchesne	[~~22~~]24
8)	Emery	[~~21~~]25
9)	Garfield	[~~25~~]27
10)	Grand	[~~22~~]26
11)	Iron	[~~20~~]24
12)	Juab	[~~21~~]22
13)	Kane	[~~26~~]28
14)	Millard	[~~26~~]28
15)	Morgan	[~~19~~]22
16)	Piute	[~~27~~]31
17)	Rich	[~~23~~]24
18)	Salt Lake	[~~22~~]24
19)	San Juan	[~~22~~]24
20)	Sanpete	[~~21~~]23
21)	Sevier	[~~21~~]23
22)	Summit	[~~23~~]25
23)	Tooele	[~~24~~]25
24)	Uintah	[~~23~~]28
25)	Utah	[~~20~~]23
26)	Wasatch	[~~18~~]20
27)	Washington	[~~21~~]25
28)	Wayne	[~~28~~]32
29)	Weber	23

(iii) Graze III. The following counties shall assess Graze III property based upon the per acre values below:

TABLE 11
GR III

1)	Beaver	[~~18~~]17
2)	Box Elder	[~~15~~]18
3)	Cache	[~~15~~]16
4)	Carbon	[~~12~~]13
5)	Daggett	[~~12~~]13
6)	Davis	[~~13~~]14
7)	Duchesne	[~~14~~]15
8)	Emery	[~~14~~]16
9)	Garfield	[~~16~~]18
10)	Grand	[~~15~~]17
11)	Iron	[~~14~~]17
12)	Juab	[~~14~~]15
13)	Kane	17
14)	Millard	[~~17~~]18
15)	Morgan	[~~12~~]14
16)	Piute	[~~17~~]20
17)	Rich	[~~14~~]15
18)	Salt Lake	[~~14~~]15
19)	San Juan	[~~15~~]16
20)	Sanpete	[~~14~~]15
21)	Sevier	[~~14~~]15
22)	Summit	[~~15~~]16
23)	Tooele	15
24)	Uintah	[~~14~~]18
25)	Utah	[~~12~~]14
26)	Wasatch	[~~12~~]13
27)	Washington	[~~13~~]15
28)	Wayne	[~~18~~]20
29)	Weber	15

(iv) Graze IV. The following counties shall assess Graze IV property based upon the per acre values listed below:

TABLE 12
GR IV

1)	Beaver	[~~7~~]6
2)	Box Elder	[~~6~~]5
3)	Cache	5
4)	Carbon	5
5)	Daggett	5
6)	Davis	5
7)	Duchesne	5
8)	Emery	[~~5~~]6
9)	Garfield	[~~6~~]5
10)	Grand	[~~5~~]6
11)	Iron	6
12)	Juab	5
13)	Kane	5
14)	Millard	[~~6~~]5
15)	Morgan	6
16)	Piute	6
17)	Rich	5
18)	Salt Lake	5
19)	San Juan	5
20)	Sanpete	5
21)	Sevier	5
22)	Summit	5
23)	Tooele	[~~6~~]5
24)	Uintah	6
25)	Utah	5
26)	Wasatch	5
27)	Washington	5
28)	Wayne	[~~6~~]5
29)	Weber	6

(f) Land classified as nonproductive shall be assessed as follows on a per acre basis:

TABLE 13
Nonproductive Land

Nonproductive Land		
1)	All Counties	5

KEY: taxation, personal property, property tax, appraisals
Date of Enactment or Last Substantive Amendment: [~~March 28, 2008~~]2009
Notice of Continuation: March 12, 2007
Authorizing, and Implemented or Interpreted Law: 59-2-515

♦ ♦

Tax Commission, Property Tax

R884-24P-70

Real Property Appraisal Requirements for County Assessors Pursuant to Utah Code Ann. Sections 59-2-303.1 and 59-2-919.1

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32052
FILED: 10/15/2008, 10:06

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 54 (2008) requires the commission to set standards for the mass appraisal system of a county of the first or second class. (DAR NOTE: H.B. 54 (2008) is found at Chapter 301, Laws of Utah 2008, and will be effective 01/01/2009.)

SUMMARY OF THE RULE OR CHANGE: The proposed section defines terms; and provides criteria that the mass appraisal system of a county of the first or second class must meet.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-2-303.1 and 59-2-919.1

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any fiscal impact was considered in H.B. 54 (2008).
❖ LOCAL GOVERNMENTS: None--Any fiscal impact was considered in H.B. 54 (2008).
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any fiscal impact was considered in H.B. 54 (2008).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Counties of the first and second class are required to have a mass appraisal system. This section sets the standards for that mass appraisal system.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts as they were considered in H.B. 54 (2008). D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
PROPERTY TAX
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2009

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R884. Tax Commission, Property Tax.
R884-24P. Property Tax.
R884-24P-70. Real Property Appraisal Requirements for County Assessors Pursuant to Utah Code Ann. Sections 59-2-303.1 and 59-2-919.1.

(1) Definitions.

(a) "Accepted valuation methodologies" means those methodologies approved or endorsed in the Standard on Mass Appraisal of Real Property and the Standard on Automated Valuation Models published by the International Association of Assessing Officers (IAAO).

(b) "Database," as referenced in Section 59-2-303.1(6), means an electronic storage of data using computer hardware and software that is relational, secure and archival, and adheres to generally accepted information technology standards of practice.

(2) County mass appraisal systems, as defined in Section 59-2-303.1, shall use accepted valuation methodologies to perform the annual update of all residential parcels.

(3)(a) A detailed review of property characteristics shall include a sufficient inspection to determine any changes to real property due to:

(i) new construction, additions, remodels, demolitions, land segregations, changes in use, or other changes of a similar nature; and

(ii) a change in condition or effective age.

(b)(i) A detailed review of property characteristics shall be made in accordance with the IAAO Standard on Mass Appraisal of Real Property.

(ii) When using aerial photography, including oblique aerial photography, the date of the photographic flight is the property review date for purposes of Section 59-2-303.1.

(4) The last property review date to be included in the county's computer system shall include the actual day, month, and year that the last detailed review of a property's characteristics was conducted.

(5) The last property review date to be included on the notice shall include at least the actual year or tax year that the last detailed review of a property's characteristics was conducted. The month and day of the review may also be included on the notice at the discretion of the county assessor and auditor.

(6)(a) The five-year plan shall detail the current year plus four subsequent years into the future. The plan shall define the properties being reviewed for each of the five years by one or more of the following:

(i) class;

(ii) property type;

(iii) geographic location; and

(iv) age.

(b) The five-year plan shall also include parcel counts for each defined property group.

KEY: taxation, personal property, property tax, appraisals
Date of Enactment or Last Substantive Amendment: [~~March 28, 2008~~]2009
Notice of Continuation: March 12, 2007
Authorizing, and Implemented or Interpreted Law: 59-2-303.1; 59-2-918 through 59-2-924

Transportation, Preconstruction
R930-3
Highway Noise Abatement

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 32000
FILED: 10/02/2008, 17:57

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: NOTE: This amendment supersedes the amendment to Rule R930-3, which was submitted 09/03/2008 and published in the October 1, 2008, issue of the Bulletin under DAR No. 31925. That filing will be allowed to lapse. This change is designed to

allow the Utah Department of Transportation (UDOT) to address highway noise impacts and to determine the conditions under which noise abatement may be approved.

SUMMARY OF THE RULE OR CHANGE: The changes address how UDOT determines where noise abatement walls will be placed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-6-111

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: No cost or savings are anticipated with this change. No new requirements were created with this change that impact the state budget. Any UDOT and/or Transportation Commission responsibilities will be administered by existing staff within existing budget.
❖ LOCAL GOVERNMENTS: No cost or savings are anticipated with this change. No new requirements were created with this change that impact local government.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No cost or savings are anticipated with this change. No new requirements were created with this change that impact small businesses or persons other than businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost here. No new requirements were created with this change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no substantial fiscal impacts on businesses. John Njord, Executive Director

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 12/08/2008

AUTHORIZED BY: John R. Njord, Executive Director

R930. Transportation, Preconstruction.
R930-3. Highway Noise Abatement.
R930-3-0. Purpose.

The following is consistent with the Federal Highway Administration's Procedures for Abatement of Highway Traffic Noise, 23 CFR 772, which is hereby adopted and incorporated by reference, and in accordance with Utah Code Ann. Section 72-6-111[~~, except that noise abatement in the form of noise barriers will only be considered for Interstate highways and Limited Access facilities~~]. This rule is designed to allow UDOT to address highway noise impacts and to determine the conditions under which noise abatement may be approved.

R930-3-1. Definitions.

(1) "Existing Noise Level" means the noise level, Leq, resulting from the natural and mechanical sources and human activity, considered to be usually present in a particular area.

(2) "Design Noise Level" means the noise level, Leq, calculated for the worst traffic noise conditions likely to occur on a regular basis [~~during the future design year,~~]using a method approved by FHWA.

(3) "Type I Project" means a highway construction project that is related to an increase in traffic noise - construction of a highway on new location or the physical alteration of an existing highway which [~~significantly~~]substantially changes the alignment or increases the number of through-traffic lanes.

(4) "Type II Project" means a proposed highway project strictly for noise abatement on an existing highway.

(5) "UDOT" means Utah Department of Transportation.

(6) "FHWA" means Federal Highway Administration.

(7) "dBA" means decibels of sound expressed or measured using the "A" weighting scale of a sound-pressure level meter.

(8) "AASHTO" means American Association of State Highway and Transportation Officials.

R930-3-2. Applicability.

(1) Type I Projects. Noise abatement shall be considered for Type I projects [~~that are on Interstate or Limited Access Highways~~]where noise impacts are identified. A new or proposed subdivision or other development must have [~~obtained~~]a formal building permit [~~from the appropriate local government agency for final plans for development~~]before the issuance of the final environmental decision document.

(2) Type II Projects. UDOT does not provide a noise retrofit (Type II) program to construct noise abatement measures along existing state transportation facilities.

R930-3-5. Noise Abatement Conditions.

In order to be considered for noise abatement, all of the following conditions must be met, if applicable:

(1) A noise abatement device shall not be installed where it will create a hazard or violate design standards. Specifically, noise abatement walls shall not be added within the highway clear zone as defined in the AASHTO Roadside Design Guide, unless a safety barrier already exists.

(2) At least five dBA of noise reduction must be achievable at typical impacted receivers nearest the highway.

(3) Residential Areas (Category B, Table 1):

(a) For residential areas, benefited receivers must be considered in determining a noise barrier's cost per receiver regardless of whether or not they were identified as impacted. A benefited receiver is any impacted or non-impacted receiver that gets a noise reduction of 5 dBA or more as a result of the noise barrier. The maximum cost used to determine reasonableness to provide noise abatement is listed in the Noise Abatement Procedures.[~~will be $25,000 per benefited receiver.~~] This cost may be periodically reviewed by the Department for reasonableness and updating, as needed.

(b) In the event that the noise barrier cost effectiveness criteria listed in the Noise Abatement Procedures is exceeded,[~~is greater than $25,000 per receiver,~~] the cost will be considered to be reasonable only if it can be demonstrated that a "severe" noise impact will occur. Severe traffic noise impacts are defined as traffic noise levels by 30 dBA or more, or results in absolute exterior nose levels of 80 dBA or greater. Based on severity, abatement will be considered on a case-by-case basis.

(c) For non-residential areas (Category A, B, or C, Table 1): The cost of noise abatement measures for schools, parks, churches and other non-residential developments including commercial and industrial areas will depend on height of noise wall required and corresponding length of frontage this type of development has exposed to the transportation facility. In any case, a reasonable cost for mitigation for noise abatement will not exceed the cost effectiveness criteria listed in the Noise Abatement Procedures.[~~$200 per linear foot of wall (for a 10-foot high wall) installed. The cost may be be periodically reviewed for reasonableness and updating, as needed.~~]

R930-3-8. Public Involvement.

(1) Department representatives shall contact the local government agency and impacted residents. This shall be done prior to completion of final design activities.[~~the final environmental decision document.~~] The concerns of the impacted residents and local government agency shall be a major consideration in reaching a decision on the abatement measures to be provided.

(2) Noise abatement may not be planned after local government agency and impacted residents' involvement if the majority of them are in opposition or indifferent to noise mitigation.

(3) Balloting Process for Noise Abatement Measures

(a) As part of the final design phase of projects, the Department needs to know if residents/land owners are in favor of noise abatement measures. This public input along with other information including; local ordinances, the amount of noise reduction achieved, engineering considerations, cost and views of the impacted and benefited residents will be considered together to come to a decision on whether or not to construct noise abatement. This process involves sending ballots to residents/land owners so they can indicate their preference for or against noise abatement measures.

(b) Ballots sent by mail are deemed by the Department as "due Diligence" in notifying the affected residents of possible noise mitigation measures in their area. One ballot will be sent by regular mail to each resident/land owner of record and each will be given a deadline as to when the ballots need to be returned for counting. If ballots sent to the residents/land owners are not returned by the deadline, a second ballot will be sent by registered mail, to those who have not returned a ballot.

Noise abatement will only be recommended if 75 percent of the following groups of residents/land owners vote, through balloting, in favor the abatement:

Front row (adjacent) receivers,

Receivers that would be impacted by the project and benefited by noise abatement.

(c) The denominator used to calculate this percentage will equal the total number of completed ballots returned. At least 50 percent of the total number of completed ballots must be returned to adequately assess if noise abatement measures are desired by residents/land owners. If less than 50 percent of completed ballots are returned, then noise abatement measures will not be considered reasonable.

R930-3-9. Coordination with Local Officials.

The Department shall coordinate in the local government review process with regard to aesthetics, height, and other design features of the proposed noise abatement measure. Effective control of highway traffic noise requires land uses near highways to be controlled, but land use planning and control belong to local government jurisdiction. UDOT shall, upon request, assist local agencies by giving information that shall help them to be aware of incompatible land uses near state highways.

Local governments may have ordinances in place that restrict the height of fences and walls along property lines. In addition, there is an increased potential for conflicts between noise barriers and overhead utilities in urban areas. As such, proposed noise barriers on non-limited access roadways in urban areas will not exceed 8 feet in height.

R930-3-10. Local Government Participation.

In instances where noise abatement has already been deemed feasible and reasonable, a third party such as a local municipality, may contribute funds to make functional or aesthetic enhancements to a noise abatement feature.[~~In instances where abatement costs would exceed a limit in paragraph R930-3-5(3), the local government agency may be offered the option to share in the cost of abatement. In order for the Department to participate in shared abatement costs, the following conditions must be met:~~

~~(1) The Department's share of the cost shall not exceed the limits in paragraph R930-3-5(3). The participating local government agency shall pay the Department an amount equal to the estimated cost of the abatement measure and appurtenances proposed that exceeds the limits in paragraph R930-3-5(3). The settlement agreement shall be signed before design begins. Payment shall be made to the Department before construction begins.~~

~~(2) The participating local government agency's final share shall be based on actual construction costs.~~]

R930-3-12. Construction Off Right-of-Way.

Normally, noise barriers (walls or berms) built pursuant to this policy shall be constructed within Department right-of-way and owned and maintained by the Department. There are cases in which Department right-of-way is not the most prudent location for noise barriers, yet noise abatement can be very feasible and reasonable if built on adjacent property or adjacent public right-of-way. In these cases:

(1) The Department's cost is limited to normal cost for abatement on Department right-of-way.

(2) In no case shall the Department construct a noise barrier unless the adjacent property owners allow access and easements as necessary in order to construct and maintain the barrier.

(3) Maintenance of noise walls and associated landscaping on the side facing the highway shall normally be the Department's responsibility. The opposite side shall be maintained by the property owner.

(4) When landscaping is included off the Department right-of-way, the Department and landowner shall sign an irrigation agreement. The Department shall not pay for irrigation off the right-of-way.

TABLE I - UDOT NOISE ABATEMENT CRITERIA (NAC)

Land Use Activity Category	Leq(h), dba*	Description of Activity Category
A	5[~~5~~]6 (Exterior)	Lands on which serenity and quiet are of extraordinary significance and serve an important public need and where the preservation of those qualities is essential if the area is to continue to serve its intended purpose.
B	6[~~5~~]6 (Exterior)	Picnic areas, fixed recreation areas, active sports areas, parks, residences, motels, hotels, schools, churches, libraries, and hospitals.
C	7[~~0~~]1 (Exterior)	Cemeteries, commercial areas, industrial areas, exterior office buildings, and other developed lands, properties or activities not included in Categories A or B above.
D	No limit	Undeveloped lands.
E	5[~~2~~]1 (Interior)	Motels, hotels, public meeting rooms, schools churches, libraries, hospitals, and auditoriums. (The interior criterion only applies when there are no exterior activities affected by traffic noise.)

* Hourly A-weighed sound level in Decibels, Reflecting a zdBA "Approach" Value Below 23 CFR 772

KEY: transportation, barrier, traffic noise abatement, highways
Date of Enactment or Last Substantive Amendment: [~~October 18, 2006~~]2008
Notice of Continuation: November 29, 2006
Authorizing, and Implemented or Interpreted Law: 72-1-201; 72-7-101

♦ ♦

End of the Notices of Proposed Rules Section

NOTICES OF
120-DAY (EMERGENCY) RULES

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

(a) cause an imminent peril to the public health, safety, or welfare;
(b) cause an imminent budget reduction because of budget restraints or federal requirements; or
(c) place the agency in violation of federal or state law (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.

Natural Resources, Wildlife Resources
R657-60-2
Definitions

NOTICE OF 120-DAY (EMERGENCY) RULE
DAR FILE NO.: 32004
FILED: 10/07/2008, 13:01

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule defines 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 emergency rule amendment is to add three bodies of waters to the infested waters list. The bodies of water include: Grand Lake, CO; Shadow Mountain Reservoir, CO; and Willow Creek Reservoir, CO.

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 amendments 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: 10/10/2008

AUTHORIZED BY: James F Karpowitz, Director

R657. Natural Resources, Wildlife Resources.
R657-60. Aquatic Invasive Species Interdiction.
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) Grand Lake, Colorado;

(ii) lower Colorado River between Lake Mead and the Gulf of California;

(iii) Lake Granby, Colorado;

(i[~~ii~~]v) Lake Mead in Nevada and Arizona;

([~~iv~~]v) Lake Mohave in Nevada and Arizona;

([~~v~~]vi) Lake Havasu in California and Arizona;

([~~vi~~]vii) Lake Pueblo in Colorado;

([~~vii~~]viii) Lake Pleasant in Arizona;

([~~viii~~]ix) San Justo Reservoir in California;

([~~ix~~]x) Southern California inland waters in Orange, Riverside, San Diego, Imperial, and San Bernardino counties;

([~~x~~]xi) Shadow Mountain Reservoir, Colorado;

(xii) Willow Creek Reservoir; Colorado;

(xiii) coastal and inland waters east of the100th Meridian in North America; and

([~~xi~~]xiv) 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 included a water body.

KEY: fish, wildlife, wildlife law
Date of Enactment or Last Substantive Amendment: October 10, 2008
Authorizing, and Implemented or Interpreted Law: 23-27-401; 23-14-18; 23-14-19

♦ ♦

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by Section 63G-3-305.

Commerce, Corporations and Commercial Code

R154-100

Utah Administrative Procedures Act Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 31993

FILED: 10/02/2008, 11:01

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63G-4-2 is the designation and procedures for adjudicative proceedings within the Utah Division of Corporations and Commercial Code.

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: Adjudicative proceedings are still required in some circumstances. Therefore, this rule should be continued.

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

COMMERCE
CORPORATIONS AND COMMERCIAL CODE
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:
Kathy Berg at the above address, by phone at 801-530-6216, by FAX at 801-530-6438, or by Internet E-mail at kberg@utah.gov

AUTHORIZED BY: Francine Giani, Executive Director

EFFECTIVE: 10/02/2008

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Commerce, Occupational and Professional Licensing

R156-5a

Podiatric Physician Licensing Act Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 32002

FILED: 10/07/2008, 11:50

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 5a, provides for the licensure of podiatric physicians. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-5a-201(3) provides that the Podiatric Physician Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 5a, with respect to podiatric physicians.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in January 2004, no written comments have been received by the Division with respect 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: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 5a, with respect to podiatric physicians. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Noel Taxin at the above address, by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at ntaxin@utah.gov

AUTHORIZED BY: F. David Stanley, Director

EFFECTIVE: 10/07/2008

♦ ♦

Commerce, Occupational and Professional Licensing

R156-37c

Utah Controlled Substance Precursor Act Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 32019
FILED: 10/09/2008, 17:12

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 37c, provides for the licensure of controlled substance precursor distributors and purchasers. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-5a-4(3) provides that the Controlled Substance Precursor Advisory Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 37c, with respect to controlled substance precursor distributors and purchasers.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in January 2004, no written comments have been received by the Division with respect 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: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 37c, with respect to controlled substance precursor distributors and purchasers. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements.

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:
Clyde Ormond at the above address, by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at cormond@utah.gov

AUTHORIZED BY: F. David Stanley, Director

EFFECTIVE: 10/09/2008

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Commerce, Occupational and Professional Licensing

R156-39a

Alternative Dispute Resolution Providers Certification Act Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 32027
FILED: 10/13/2008, 08:23

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 39a, provides for the licensure of alternative dispute resolution providers. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-39a-3(3) provides that the Alternative Dispute Resolution Providers Certification Board's duties and

responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 39a, with respect to alternative dispute resolution providers.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in January 2004, it has been amended once in August 2006 to delete the law/rule examination for applicants for licensure. The Division has received no written comments since the rule was last reviewed in January 2004.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 39a, with respect to alternative dispute resolution providers. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements.

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:
Clyde Ormond at the above address, by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at cormond@utah.gov

AUTHORIZED BY: F. David Stanley, Director

EFFECTIVE: 10/13/2008

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Commerce, Occupational and Professional Licensing

R156-74

Certified Court Reporters Licensing Act Rule

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 32021
FILED: 10/09/2008, 17:38

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 74, provides for the licensure of certified court reporters. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-74-201(3) provides that the Certified Court Reporters Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 39a, with respect to certified court reporters.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in February 2004, it has been amended once in June 2008. The Division has received no written comments since the rule was last reviewed in February 2004.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 74, with respect to certified court reporters. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements.

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:
Clyde Ormond at the above address, by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at cormond@utah.gov

AUTHORIZED BY: F. David Stanley, Director

EFFECTIVE: 10/09/2008

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Corrections, Administration

R251-103

Undercover Roles of Offenders

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 31995
FILED: 10/02/2008, 12:35

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 63G-3-201, Subsection 64-13-6(1)(f), Section 64-13-10, and Section 64-13-14, which require the Department to enact rules, supervise offenders, and maintain safe and secure facilities. The improper use of offenders in undercover roles would jeopardize the safety and security of both persons and facilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received during the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides the basis for determining when and how offenders may be used in undercover roles by Corrections and other federal, state, and local law enforcement agencies.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

AUTHORIZED BY: Thomas E. Patterson, Executive Director

EFFECTIVE: 10/02/2008

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Corrections, Administration
R251-105
Applicant Qualifications for Employment with Department of Corrections

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 31996
FILED: 10/02/2008, 12:38

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Sections 63G-3-201, 64-13-10, and 64-13-25, which authorize the Department to make rules and establish minimum standards for the organization and operation of its programs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it establishes minimum standards for employment with Corrections and helps maintain professionalism and greater safety and security.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR
DRAPER UT 84020-9549, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

AUTHORIZED BY: Thomas E. Patterson, Executive Director

EFFECTIVE: 10/02/2008

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Education, Administration
R277-470
Charter Schools

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 32022
FILED: 10/10/2008, 06:23

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) which allows the Utah State Board of Education to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS

SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides standards and procedures for the establishment, funding, and operation of charter schools. It is critical that the information in the rule continue to be provided so that charter schools are established, funded, and operated consistently and in accordance with state law. Therefore, this rule should be continued.

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

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

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

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

EFFECTIVE: 10/10/2008

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Environmental Quality, Radiation Control
R313-21
General Licenses

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 32046
FILED: 10/14/2008, 15:48

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 19-3-104, all sources of ionizing radiation shall be registered or licensed by the department.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: 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 Radiation Control Board has determined there is a need to license radiation sources that constitute a significant health hazard. This rule specifies the regulatory requirements for radiation sources subject to a general license. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mario A. Bettolo at the above address, by phone at 801-536-4256, by FAX at 801-533-4097, or by Internet E-mail at mbettolo@utah.gov

AUTHORIZED BY: Dane Finerfrock, Director

EFFECTIVE: 10/14/2008

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Environmental Quality, Radiation Control
R313-30
Therapeutic Radiation Machines

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 32048
FILED: 10/14/2008, 15:50

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Section 19-3-104, all sources of ionizing radiation shall be registered or licensed by the department.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: 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 Radiation Control Board has determined there is a need to license radiation sources that constitute a significant health hazard. This rule specifies the regulatory requirements for radiation originating from Therapeutic Radiation Machines. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mario A. Bettolo at the above address, by phone at 801-536-4256, by FAX at 801-533-4097, or by Internet E-mail at mbettolo@utah.gov

AUTHORIZED BY: Dane Finerfrock, Director

EFFECTIVE: 10/14/2008

Environmental Quality, Radiation Control

R313-38

Licenses and Radiation Safety Requirements for Well Logging

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 32047
FILED: 10/14/2008, 15:49

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Section 19-3-104, the board may require the registration or licensing of radiation sources that constitute a significant health hazard. Under Section 19-3-108, the executive secretary may, as authorized by the board, issue licenses, registrations, and certifications.

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 Radiation Control Board has determined there is a need to license radiation sources that constitute a significant health hazard. This rule specifies the regulatory requirements for radiation sources used in Well Logging operations. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mario A. Bettolo at the above address, by phone at 801-536-4256, by FAX at 801-533-4097, or by Internet E-mail at mbettolo@utah.gov

AUTHORIZED BY: Dane Finerfrock, Director

EFFECTIVE: 10/14/2008

Financial Institutions, Administration

R331-25

Rule Governing Debt Cancellation and Debt Suspension Agreements Issued by Depository Institutions, Who Are Under the Jurisdiction of the Department of Financial Institutions

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 32026
FILED: 10/13/2008, 08:10

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 7-1-324(2) authorizes any member of a class of depository institution that is subject to the jurisdiction of the department to issue a debt cancellation or a debt suspension agreement pursuant to a rule issued by the commissioner.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule regulates depository institutions authorized to issue a debt cancellation or a debt suspension agreement and should be continued.

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

FINANCIAL INSTITUTIONS
ADMINISTRATION
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 10/13/2008

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. Statute permits an agency to make a rule effective "on any date specified by the agency that is no fewer than seven calendar days after the close of the public comment period . . . , nor more than 120 days after the publication date." Subsection 63G-3-301(9).

Abbreviations
AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Agriculture and Food
Plant Industry
No. 31800 (AMD): R68-7-8. Certification Procedures.
Published: September 1, 2008
Effective: October 9, 2008

Commerce
Occupational and Professional Licensing
No. 31803 (AMD): R156-1-109. Presiding Officers.
Published: September 1, 2008
Effective: October 9, 2008

No. 31804 (AMD): R156-46b. Division Utah Administrative Procedures Act Rules.
Published: September 1, 2008
Effective: October 9, 2008

No. 31802 (AMD): R156-55a. Utah Construction Trades Licensing Act Rule.
Published: September 1, 2008
Effective: October 9, 2008

No. 31801 (AMD): R156-55b. Electricians Licensing Rules.
Published: September 1, 2008
Effective: October 9, 2008

Education
Administration
No. 31828 (REP): R277-418. School Professional Development Days Pilot Program.
Published: September 1, 2008
Effective: October 8, 2008

No. 31829 (AMD): R277-436. Gang Prevention and Intervention Programs in the Schools.
Published: September 1, 2008
Effective: October 8, 2008

No. 31830 (AMD): R277-464. Highly Impacted Schools.
Published: September 1, 2008
Effective: October 8, 2008

No. 31831 (AMD): R277-470. Charter Schools.
Published: September 1, 2008
Effective: October 8, 2008

No. 31832 (AMD): R277-477. Distribution of Funds from the School Trust Lands Account and Implementation of the School LAND Trust Program.
Published: September 1, 2008
Effective: October 8, 2008

No. 31834 (NEW): R277-494. Charter School and Online Student Participation in Extracurricular or Co-curricular School Activities.
Published: September 1, 2008
Effective: October 8, 2008

No. 31833 (AMD): R277-506. School Psychologists and School Social Workers Licenses and Program.
Published: September 1, 2008
Effective: October 8, 2008

No. 31835 (NEW): R277-715. English Language Learner Family Literacy Centers.
Published: September 1, 2008
Effective: October 8, 2008

No. 31836 (AMD): R277-733. Adult Education Programs.
Published: September 1, 2008
Effective: October 8, 2008

No. 31837 (AMD): R277-735. Standards and Procedures for Corrections Education Programs Serving Inmates of the Utah Department of Corrections.
Published: September 1, 2008
Effective: October 8, 2008

Rehabilitation
No. 31838 (R&R): R280-150. Adjudicative Proceedings Under the Vocational Rehabilitation Act.
Published: September 1, 2008
Effective: October 8, 2008

Environmental Quality
Administration
No. 31391 (NEW): R305-4. Clean Fuels and Vehicle Technology Fund Grant and Loan Program.
Published: June 1, 2008
Effective: October 8, 2008

No. 31391 (CPR): R305-4. Clean Fuels and Vehicle Technology Fund Grant and Loan Program.
Published: September 1, 2008
Effective: October 8, 2008

Air Quality
No. 31390 (NEW): R307-123. General Requirements: Clean Fuels and Vehicle Technology Grant and Loan Program.
Published: June 1, 2008
Effective: October 8, 2008

No. 31390 (CPR): R307-123. General Requirements: Clean Fuels and Vehicle Technology Grant and Loan Program.
Published: September 1, 2008
Effective: October 8, 2008

Health
Health Care Financing, Coverage and Reimbursement Policy
No. 31644 (R&R): R414-54. Speech-Language Pathology Services.
Published: July 15, 2008
Effective: October 2, 2008

No. 31645 (R&R): R414-59. Audiology-Hearing Services.
Published: July 15, 2008
Effective: October 2, 2008

Health Systems Improvement, Child Care Licensing
No. 31819 (R&R): R430-8. Exemptions From Child Care Licensing.
Published: September 1, 2008
Effective: November 1, 2008

Health Systems Improvement, Licensing
No. 31768 (AMD): R432-270. Assisted Living Facilities.
Published: August 15, 2008
Effective: October 15, 2008

Human Services
Administration
No. 31811 (AMD): R495-882. Termination of Parental Rights.
Published: September 1, 2008
Effective: October 8, 2008

Insurance
No. 31062 (AMD): R590-131. Accident and Health Coordination of Benefits Rule.
Published: April 1, 2008
Effective: October 2, 2008

No. 31062 (CPR): R590-131. Accident and Health Coordination of Benefits Rule.
Published: July 1, 2008
Effective: October 2, 2008

Pardons (Board Of)
No. 31816 (AMD): R671-509. Progress Violation Reports.
Published: September 1, 2008
Effective: October 13, 2008

No. 31814 (AMD): R671-510. Evidence for Issuance of Warrants.
Published: September 1, 2008
Effective: October 13, 2008

No. 31815 (AMD): R671-512. Execution of the Warrant.
Published: September 1, 2008
Effective: October 13, 2008

No. 31813 (AMD): R671-514. Waiver and Pleas of Guilt.
Published: September 1, 2008
Effective: October 13, 2008

No. 31817 (AMD): R671-515. Timeliness of Parole Revocation Hearings.
Published: September 1, 2008
Effective: October 13, 2008

No. 31818 (AMD): R671-516. Parole Revocation Hearings.
Published: September 1, 2008
Effective: October 13, 2008

Regents (Board Of)
No. 31524 (NEW): R765-603. Regents' Scholarship.
Published: July 1, 2008
Effective: October 7, 2008

RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2008, including notices of effective date received through October 15, 2008, the effective dates of which are no later than November 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: Because of publication constraints, the Keyword Index is not printed in this Bulletin.

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801-538-3218), Mike Broschinsky (801-538-3003), or Kenneth A. Hansen (801-538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (http://www.rules.utah.gov/).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
5YR = Five-Year Review

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Administrative Services					
Administration					
R13-1	Public Petitions for Declaratory Orders	31342	NSC	05/05/2008	Not Printed
R13-1	Public Petitions for Declaratory Orders	31936	5YR	09/10/2008	2008-19/78
R13-2	Access to Records	31343	NSC	05/05/2008	Not Printed
Administrative Rules					
R15-1	Administrative Rule Hearings	31143	NSC	05/05/2008	Not Printed
R15-2	Public Petitioning for Rulemaking	31144	NSC	05/05/2008	Not Printed
R15-3	Definitional Clarification of Administrative Rule	31145	NSC	05/05/2008	Not Printed
R15-4	Administrative Rulemaking Procedures	31146	NSC	05/05/2008	Not Printed
R15-5	Administrative Rules Adjudicative Proceedings	31147	NSC	05/05/2008	Not Printed
Archives					
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
Facilities Construction and Management					
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
R23-22	General Procedures For Acquisition and Selling of Real Property	31606	NEW	09/11/2008	2008-14/3
R23-22	General Procedures For Acquisition and Selling of Real Property	31799	NSC	10/01/2008	Not Printed
Finance					
R25-2	Finance Adjudicative Proceedings	31318	NSC	05/05/2008	Not Printed
R25-5	Payment of Per Diem to Boards	31317	5YR	04/29/2008	2008-10/143
R25-6	Relocation Reimbursement	31316	5YR	04/29/2008	2008-10/143
R25-7	Travel-Related Reimbursements for State Employees	31319	5YR	04/29/2008	2008-10/144
R25-7	Travel-Related Reimbursements for State Employees	31320	AMD	07/01/2008	2008-10/4
R25-8	Meal Allowance	31321	AMD	07/01/2008	2008-10/7
R25-8	Overtime Meal Allowance	31982	5YR	10/01/2008	2008-20/51
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	08/19/2008	2008-13/5
R25-14	Payment of Attorneys' Fees in Death Penalty Cases	31775	NSC	10/01/2008	Not Printed
Fleet Operations					
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
Fleet Operations, Surplus Property					
R28-3	Utah State Agency for Surplus Property Adjudicative Proceedings	31117	5YR	04/04/2008	2008-9/52
Purchasing and General Services					
R33-1	Utah State Procurement Rules Definitions	31477	NSC	06/18/2008	Not Printed
R33-2-101	Delegation of Authority of the Chief Procurement Officer	31478	NSC	06/18/2008	Not Printed
R33-3	Source Selection and Contract Formation	31479	NSC	06/18/2008	Not Printed
R33-3-4	Sole Source Procurement	31475	AMD	08/01/2008	2008-12/3
R33-4	Specifications	31480	NSC	06/18/2008	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
Records Committee					
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
R35-2-2	Declining Requests for Hearings	31938	NSC	10/01/2008	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
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R651-612	Firearms, Traps and Other Weapons	30901	AMD	03/10/2008	2008-3/42
R651-612	Firearms, Traps and Other Weapons	31671	5YR	07/07/2008	2008-15/93
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R657-33	Taking Bear	30906	AMD	03/10/2008	2008-3/44
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R657-53	Amphibian and Reptile Collection, Importation, Transportation, and Possession	31051	AMD	05/08/2008	2008-7/50
R657-53	Amphibian and Reptile Collection, Importation, Transportation, and Possession	31508	5YR	06/02/2008	2008-12/61
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R767-1	Government Records Access and Management Act	31410	NSC	08/18/2008	Not Printed
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R861-1A-43	Electronic Meetings Pursuant to Utah Code Ann. Section 52-4-207	30780	AMD	01/25/2008	2007-24/24
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