

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.

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3764. Additional rulemaking information, and electronic versions of all administrative rule publications are available at: <http://www.rules.utah.gov/>

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

Division of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Health Health Care Financing, Coverage and Reimbursement Policy

Medicaid Nursing Facility Reimbursement

The Division of Medicaid and Health Financing (DMHF) is submitting changes to the Medicaid State Plan through "Attachment 4.19-D, SPA 13-019-UT Quality Improvement Incentive". These changes are necessary to update the quality incentive programs for nursing facilities and intermediate care facilities for persons with intellectual disabilities (ICFs/ID), and also add a new program in State Fiscal Year 2014 and beyond.

Pending Centers for Medicare and Medicaid Services (CMS) approval, this amendment becomes effective on July 1, 2013.

This amendment is anticipated to result in an increase of approximately \$743,600 per year.

A copy of these changes may be obtained from Craig Devashrayee (801-538-6641), or by writing the Technical Writing Unit, Utah Department of Health, P.O. Box 143102, Salt Lake City, UT 84114-3102. Comments are welcome at the same address. Copies of the changes are also available at local county health department offices.

Health Health Care Financing, Coverage and Reimbursement Policy

Crossover Payments

The Division of Medicaid and Health Financing (DMHF) is submitting a change to the Medicaid State Plan through "Attachment 4.19-B, SPA 13-023-UT Crossover Payments". The purpose of this change is to clarify that Medicaid, as a payor of last resort, utilizes third-party payment methodology for crossover claims of Medicare beneficiaries.

This amendment, therefore, clarifies that Medicaid pays only for a patient's liability on a crossover claim, and will only pay the lower of the allowed Medicaid payment rate less the amounts paid by Medicare and other payors, or the Medicare co-insurance and deductible.

DMHF does not expect any annual costs or expenditures to result from this clarification.

A copy of this change may be obtained from Craig Devashrayee (801-538-6641), or by writing the Technical Writing Unit, Utah Department of Health, P.O. Box 143102, Salt Lake City, UT 84114-3102. Comments are welcome at the same address. Copies of this change are also available at local county health department offices.

End of the Special Notices Section

EXECUTIVE DOCUMENTS

As part of his or her constitutional duties, the Governor periodically issues **EXECUTIVE DOCUMENTS** comprised of Executive Orders, Proclamations, and Declarations. "Executive Orders" set policy for the Executive Branch; create boards and commissions; provide for the transfer of authority; or otherwise interpret, implement, or give administrative effect to a provision of the Constitution, state law or executive policy. "Proclamations" call special or extraordinary legislative sessions; designate classes of cities; publish states-of-emergency; promulgate other official formal public announcements or functions; or publicly avow or cause certain matters of state government to be made generally known. "Declarations" designate special days, weeks or other time periods; call attention to or recognize people, groups, organizations, functions, or similar actions having a public purpose; or invoke specific legislative purposes (such as the declaration of an agricultural disaster).

The Governor's Office staff files **EXECUTIVE DOCUMENTS** that have legal effect with the Division of Administrative Rules for publication and distribution. All orders issued by the Governor not in conflict with existing laws have the full force and effect of law during a state of emergency when a copy of the order is filed with the Division of Administrative Rules. (See Section 63K-4-401).

Governor's Proclamation 2013/01/E: Calling the Sixtieth Legislature Into the First Extraordinary Session

PROCLAMATION

WHEREAS, since the close of the 2013 General Session of the 60th Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

WHEREAS, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Senate in Extraordinary Session;

NOW, THEREFORE, I, GARY R. HERBERT, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and Laws of the State of Utah, do by this Proclamation call the Senate only of the 60th Legislature into the First Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 15th day of May 2013, at 1:30 p.m., for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2013 General Session of the Legislature of the State of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 10th day of May 2013.

(State Seal)

Gary R. Herbert
Governor

Greg Bell
Lieutenant Governor

2013/01/E

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 May 02, 2013, 12:00 a.m., and May 15, 2013, 11:59 p.m. are included in this, the June 01, 2013 issue of the *Utah State Bulletin*.

In this publication, each **PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (e.g., example). Deletions made to existing rules are struck out with brackets surrounding them (e.g., [~~example~~]). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (.) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not printed. If a **PROPOSED RULE** is too long to print, the Division of Administrative Rules will include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least July 1, 2013. The agency may accept comment beyond this date and will indicate 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 hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through September 29, 2013, 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 OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** 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; 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

Alcoholic Beverage Control,
Administration
R81-4A-2
Application

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37615

FILED: 05/13/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This section is being amended to include application processing instructions for the Master Full Service Restaurant license that was created by H.B. 228 passed by the Legislature in the 2013 General Session.

SUMMARY OF THE RULE OR CHANGE: This section outlines the application requirements for a Master Full Service Restaurant License.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32B-1-607 and Section 32B-6-206

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** None--This rule filing simply makes the Department of Alcoholic Beverage Control (DABC) rules consistent with state statute.
- ◆ **LOCAL GOVERNMENTS:** None--This rule filing simply makes the DABC rules consistent with state statute.
- ◆ **SMALL BUSINESSES:** None--This rule filing simply makes the DABC rules consistent with state statute.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--This rule filing simply makes the DABC rules consistent with state statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This rule filing simply makes the DABC rules consistent with state statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--This rule filing simply makes the DABC rules consistent with state statute.

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY, UT 84104-1630
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

AUTHORIZED BY: Sal Petilos, Executive Director

R81. Alcoholic Beverage Control, Administration.

R81-4A. Restaurant Liquor Licenses.

R81-4A-2. Application.

(1) No license or sublicense application will be included on the agenda of a monthly commission meeting for consideration for issuance of a restaurant license until:

(a) The applicant has first met all requirements of Sections 32B-1-304 (qualifications to hold the license), and 32B-5-201, -204, and 32B-6-204 (submission of a completed application, payment of application and licensing fees, written consent of local authority, copy of current local business license(s) necessary for operation of a full service restaurant, evidence of proximity to certain community locations, a bond, a floor plan, and public liability and liquor liability insurance); 32B-6-206 (requirements for a master full service restaurant license); and

(b) the department has inspected the restaurant premise(s).

(2)(a) All application requirements of Subsection (1)(a) must be filed with the department no later than the 10th day of the month in order for the application to be included on that month's commission meeting agenda unless the 10th day of the month is a Saturday, Sunday, or state or federal holiday, in which case all application requirements of Subsection (1)(a) must be filed on the next business day after the 10th day of the month.

(b) An incomplete application will be returned to the applicant.

(c) A completed application filed after the deadline in Subsection (2)(a) will not be considered by the commission that month, but will be included on the agenda of the commission meeting the following month.

(3) Subsection (1)(a) does not preclude the commission from considering an application for a conditional restaurant license under the terms and conditions of 32B-5-205.

(4) Applicants may apply for a Master Full Service Restaurant License as defined by 32B-6-206 so long as five or more locations are indicated as sublicenses on the application.

(a) The five locations must be owned by the same person or entity.

(b) Locations that do not already have a full service restaurant license must meet all requirements for licensing as a full service restaurant under subsection (1).

(c) Once the master license is granted, the licensee may add additional locations by filing an application approved by the department demonstrating that the location meets all application requirements under section (1).

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: ~~May 22, 2012~~ 2013

Notice of Continuation: May 10, 2011

Authorizing, and Implemented or Interpreted Law: 32B-1-607; 32B-2-202; 32B-5-303(3); 32B-6-202; 32B-6-206

**Alcoholic Beverage Control,
Administration
R81-4C-2
Application**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37616

FILED: 05/13/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This section is being amended to include application processing instructions for the Master Limited Service Restaurant license that was created by H.B. 228 passed by the Legislature in the 2013 General Session.

SUMMARY OF THE RULE OR CHANGE: This section outlines the application requirements for a Master Limited Service Restaurant License.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32B-1-607 and Section 32B-6-306

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** None--This rule filing simply makes the Department of Alcoholic Beverage Control (DABC) rules consistent with state statute.

◆ **LOCAL GOVERNMENTS:** None--This rule filing simply makes the DABC rules consistent with state statute.

◆ **SMALL BUSINESSES:** None--This rule filing simply makes the DABC rules consistent with state statute.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--This rule filing simply makes the DABC rules consistent with state statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This rule filing simply makes the DABC rules consistent with state statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--This rule filing simply makes the DABC rules consistent with state statute.

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION

1625 S 900 W

SALT LAKE CITY, UT 84104-1630

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

AUTHORIZED BY: Sal Petilos, Executive Director

R81. Alcoholic Beverage Control, Administration.

R81-4C. Limited Restaurant Licenses.

R81-4C-2. Application.

(1) No license or sublicense application will be included on the agenda of a monthly commission meeting for consideration for issuance of a limited restaurant license until:

(a) The applicant has first met all requirements of Sections 32B-1-304 (qualifications to hold the license), and 32B-5-201, -204 and 32B-6-304 (submission of a completed application, payment of application and licensing fees, written consent of local authority, copy of current local business license(s) necessary for operation of a limited restaurant license, evidence of proximity to certain community locations, a bond, a floor plan, and public liability and liquor liability insurance); 32B-6-306 (requirements for a master limited service license); and

(b) the department has inspected the limited restaurant premise.

(2)(a) All application requirements of Subsection (1)(a) must be filed with the department no later than the 10th day of the month in order for the application to be included on that month's commission meeting agenda unless the 10th day of the month is a Saturday, Sunday, or state or federal holiday, in which case all application requirements of Subsection (1)(a) must be filed on the next business day after the 10th day of the month.

(b) An incomplete application will be returned to the applicant.

(c) A completed application filed after the deadline in Subsection (2)(a) will not be considered by the commission that month, but will be included on the agenda of the commission meeting the following month.

(3) Subsection (1)(a) does not preclude the commission from considering an application for a conditional limited restaurant license under the terms and conditions of 32B-5-205.

(4) Applicants may apply for a Master Limited Service Restaurant License as defined by 32B-6-306 so long as five or more locations are indicated as sublicenses on the application.

(a) The five locations must be owned by the same person or entity.

(b) Locations that do not already have a limited service restaurant license must meet all requirements for licensing as a limited service restaurant under subsection (1).

(c) Once the master license is granted, the licensee may add additional locations by filing an application approved by the department demonstrating that the location meets all application requirements under section (1).

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: 2013

Notice of Continuation: July 31, 2008

Authorizing, and Implemented or Interpreted Law: 32B-1-607; 32B-2-202; 32B-5-303(3); 32B-6-301 through 305.1; 32B-6-207

**Alcoholic Beverage Control,
Administration
R81-5-1
Licensing**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37617

FILED: 05/13/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 228 passed by the Legislature in the 2013 General Session amended Section 32B-6-407 to allow Fraternal Clubs to be open to the general public in certain instances. This section is being amended to incorporate this change.

SUMMARY OF THE RULE OR CHANGE: This section outlines the requirements for compliance with Section 32B-6-407 which now allows Fraternal Clubs to allow guests that are over 21 without a host as long as the practice is allowed in the bylaws of the Fraternal Club and the Fraternal Club maintains at least 60% of its total business from the sale of food pursuant.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32B-1-607 and Section 32B-6-407

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: None--This rule filing simply makes the Department of Alcoholic Beverage Control (DABC) rules consistent with state statute.

♦ LOCAL GOVERNMENTS: None--This rule filing simply makes the DABC rules consistent with state statute.

♦ SMALL BUSINESSES: None--This rule filing simply makes the DABC rules consistent with state statute.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--This rule filing simply makes the DABC rules consistent with state statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This rule filing simply makes the DABC rules consistent with state statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--This rule filing simply makes the DABC rules consistent with state statute.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY, UT 84104-1630
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

AUTHORIZED BY: Sal Petilos, Executive Director

R81. Alcoholic Beverage Control, Administration.

R81-5. Club Licenses.

R81-5-1. Licensing.

(1) Club liquor licenses are issued to persons as defined in Section 32B-1-102(74). Any contemplated action or transaction that may alter the organizational structure or ownership interest of the person to whom the license is issued must be submitted to the department for approval prior to consummation of any such action to ensure there is no violation of Sections 32B-5-310.

(2) (a) At the time the commission grants a club license the commission must designate whether the club qualifies to operate as an equity, fraternal, dining, or social club based on criteria in 32B-6-404.

(b) After any club license is granted, a club may request that the commission approve a change in the club's classification in writing supported by evidence to establish that the club qualifies to operate under the new class designation based on the criteria in 32B-6-404.

(c) The department shall conduct an investigation for the purpose of gathering information and making a recommendation to the commission as to whether or not the request should be granted. The information shall be forwarded to the commission to aid in its determination.

(d) If the commission determines that the club has provided credible evidence to establish that it meets the statutory criteria to operate under the new class designation, the commission shall approve the request.

(e)(i) Pursuant to 32B-6-409, a dining club licensee may convert its dining club license to a different type of retail license for which the dining club licensee qualifies. However, the conversion must occur between July 1, 2011 and June 30, 2013.

(ii) The dining club licensee shall request the conversion in writing supported by evidence to establish that the club qualifies to operate under the new retail license based on the statutory criteria for that type of license.

(iii) The department shall conduct an investigation for the purpose of gathering information and making a recommendation to the commission as to whether or not the request should be granted. The information shall be forwarded to the commission to aid in its determination.

(iv) If the commission determines that the club has provided credible evidence to establish that it meets the statutory criteria to operate under the new retail license, the commission shall approve the request.

(v) After the conversion, the licensee must then operate under the provisions relevant to the type of retail license to which the club converted. If the dining club is converted to a full-service restaurant, limited-service restaurant, or beer-only restaurant, the bar structure of the dining club is considered a seating grandfathered bar structure for purposes of a full-service restaurant or limited-service restaurant license, or a grandfathered bar structure for purposes of a beer-only restaurant license.

(vi) Such conversions will not be counted against any quota for the type of retail licensee to which the club converted.

(3)(a) A dining club must operate as described in 32B-6-404(3), and must maintain at least 60% of its total club business from the sale of food, not including mix for alcoholic beverages, and service charges. ~~Any dining club that was licensed on or before June 30, 2011, may maintain 50% food sales until July 1, 2012, but must then maintain 60%.~~

(b) A dining club shall maintain records separately showing quarterly expenditures and sales for beer, heavy beer, liquor, wine, set-ups and food. These shall be available for inspection and audit by representatives of the department, and maintained for a period of three years.

(c) If any inspection or audit discloses that the sales of food are less than the required percentage for any quarterly period, the department shall immediately put the licensee on a probationary status and closely monitor the licensee's food sales during the next quarterly period to determine that the licensee is able to prove to the satisfaction of the department that the sales of food meet or exceed the required percentage. Failure of the licensee to provide satisfactory proof of the required food percentage within the probationary period shall result in issuance of an order to show cause by the department to determine why the license should not be revoked by the commission, or alternatively, to determine why the license should not be immediately reclassified by the commission as a social club. If the commission grants a reclassification to a social club, the reclassification shall remain in effect until the licensee files a request for and receives approval from the commission to be reclassified a dining club. The request shall provide credible evidence to prove to the satisfaction of

the commission that in the future, the sales of food will meet or exceed the required percentage.

(1) Club licensees with a Fraternal Club classification as of July 1, 2013 may allow guests that are over 21 without a host as long as long as the practice is allowed in the bylaws of the Fraternal Club and the Fraternal Club maintains at least 60% of its total business from the sale of food pursuant to Section 32B-6-407(10)(c) (i-iii).

(a) The Fraternal Club shall notify the department of the intent to allow guests without a host by providing a copy of the bylaws and proof that the Fraternal Club meets the 60% food requirement.

(b) The Fraternal Club shall maintain records separately showing quarterly expenditures and sales for beer, heavy beer, liquor, wine, set-ups, and food. These shall be available for inspection and audit by representatives of the department, and maintained for a period of three years.

(c) If any inspection or audit discloses that the sales of food are less than 60% for any quarterly period, the department shall immediately put the licensee on a probationary status and closely monitor the licensee's food sales during the next quarterly period to determine that the licensee is able to prove to the satisfaction of the department that the sales of food meet or exceed 60%. Failure of the licensee to provide satisfactory proof of the required food percentage within the probationary period shall result in issuance of an order to show cause by the department to determine if the Fraternal Club may continue to allow guests without a host.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: ~~May 22, 2012~~2013

Notice of Continuation: May 10, 2011

Authorizing, and Implemented or Interpreted Law: 32B-1-607; 32B-2-202; 32B-5; [32B-6-409(3)]32B-6-401 through 409

**Alcoholic Beverage Control,
Administration
R81-5-5
Advertising**

**NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 37618
FILED: 05/13/2013**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 228 passed by the Legislature in the 2013 General Session amended Section 32B-6-407 eliminated the prohibition against a public advertising for fraternal and equity clubs. This section is being removed to be consistent with state statute.

SUMMARY OF THE RULE OR CHANGE: This section is being removed in its entirety.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32B-1-607 and Section 32B-6-607

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: None--This rule filing simply makes the Department of Alcoholic Beverage Control (DABC) rules consistent with state statute.
- ◆ LOCAL GOVERNMENTS: None--This rule filing simply makes the DABC rules consistent with state statute.
- ◆ SMALL BUSINESSES: None--This rule filing simply makes the DABC rules consistent with state statute.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--This rule filing simply makes the DABC rules consistent with state statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This rule filing simply makes the DABC rules consistent with state statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--This rule filing simply makes the DABC rules consistent with state statute.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ALCOHOLIC BEVERAGE CONTROL
 ADMINISTRATION
 1625 S 900 W
 SALT LAKE CITY, UT 84104-1630
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

AUTHORIZED BY: Sal Petilos, Executive Director

R81. Alcoholic Beverage Control, Administration.

R81-5. Club Licenses.

~~R81-5-5. Advertising.~~

~~(1) Authority. This rule is pursuant to the commission's powers and duties under 32B-2-202 to act as a general policymaking body on the subject of alcoholic beverage control and to set policy by written rules that prescribe the conduct and management of any premises upon which alcoholic beverages may be sold, consumed, served, or stored.~~

~~(2) Purpose. This rule furthers the intent of 32B-6-407(13) that equity and fraternal clubs advertise in a manner that preserves the concept that such clubs are private and not open to the general public.~~

~~(3) Application of Rule:~~

~~(a) Any public advertising by an equity or fraternal club, its employees, agents, or members, or by any person under contract or agreement with the club shall clearly identify the club as being "a club for members". In print media, this club identification information must be no smaller than 10 point bold type.~~

~~(b) An equity or fraternal club, its employees, agents, or members, or any person under a contract or agreement with the club may not directly or indirectly engage in or participate in any public advertising or promotional scheme that runs counter to the concept that such clubs are private and not open to the general public such as:~~

~~(i) offering or providing complimentary club memberships to the general public;~~

~~(ii) offering or providing full or partial payment of membership fees or dues to members of the general public;~~

~~(iii) offering or implying an entitlement to a club membership to members of the general public; or~~

~~(iv) offering to host members of the general public into the club.~~

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: ~~May 22, 2012~~2013

Notice of Continuation: May 10, 2011

Authorizing, and Implemented or Interpreted Law: 32B-1-607; 32B-2-202; 32B-5; [32B-6-409(3)]32B-6-401 through 409

Career Service Review Office,
 Administration
R137-1
 Grievance Procedure Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37607

FILED: 05/08/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is mandated by legislative action pursuant to S.B. 95 in the 2012 General Session. Changes to the definitions are clerical. The amendment also clarifies the scope of a hearing officer's discretion.

SUMMARY OF THE RULE OR CHANGE: The amendment makes the Grievance Procedure Rules consistent Sections 67-19a-101 through 67-19a-402.5 and 67-21-2 through 67-21-10, as amended by S.B. 95 (2012). The amendment to Sections R137-1-18 and R137-1-19 allows a hearing officer discretion to expel witnesses. Definitions are amended for clarity.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63G-4-401 and Sections 67-19a-101 through 67-19a-402.5 and Sections 67-21-2 through 67-21-10

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: No fiscal impact to the state budget from the rule but see fiscal note to S.B. 95 (2012).
- ◆ LOCAL GOVERNMENTS: Does not apply--Only executive branch state employees are eligible to grieve at the Career Service Review Office (CSRO). Local governments do not interact with the CSRO and changes to the rule will not affect local governments.
- ◆ SMALL BUSINESSES: Does not apply--Only executive branch state employees are eligible to grieve at the CSRO. Small businesses do not interact with the CSRO and changes to the rule will not affect small businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Does not apply--Only executive branch state employees are eligible to grieve at the CSRO. Changes to the CSRO rule will not affect any persons or entities other than executive branch state employees (see answer under "Compliance for affected persons" below).

COMPLIANCE COSTS FOR AFFECTED PERSONS: Executive branch state employees will be able to file grievances brought under the Utah Protection of Public Employees Act. There is no filing fee at the CSRO and this will generate no additional costs to employees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 CAREER SERVICE REVIEW OFFICE
 ADMINISTRATION
 ROOM 1120 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:

- ◆ Akiko Kawamura by phone at 801-538-3047, by FAX at 801-538-3139, or by Internet E-mail at akawamura@utah.gov
- ◆ Annette Morgan by phone at 801-538-3048, by FAX at 801-538-3139, or by Internet E-mail at amorgan@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

AUTHORIZED BY: Akiko Kawamura, Administrator

R137. Career Service Review Office, Administration.

R137-1. Grievance Procedure Rules.

R137-1-2. Definitions.

Terms defined in Section 63G-4-103 of the Utah Administrative Procedures Act (UAPA) are incorporated by reference within this rule. In addition, other terms which are used in this rule are defined below:

"Abandonment of Grievance" means either the voluntary withdrawal of a grievance or the failure by an employee to properly pursue a grievance through these grievance procedures.

"Administrative Review of the File" means an informal adjudicative proceeding according to Subsection 67-19a-403(3)(b).

"Administrator" means the ~~incumbent in the position defined at~~ person appointed under Subsection 67-19a-~~[+]~~201(1).

"Affidavit" means a signed and sworn statement offered for consideration in connection with a grievance proceeding.

"Affirmative Defense" means a responsive answer asserting facts in addition to those alleged that are legally sufficient to rebut asserted allegations.

"Appeal" means a formal request to a higher level of review of a ~~[n-unacceptable]~~ lower level decision.

"Appointing Authority" means the officer, board, commission, person or group of persons authorized to make appointments on personnel/human resource management matters in their respective agency.

"Burden of Moving Forward" means a party's obligation to present evidence on a particular issue at a particular time. The burden of moving forward may shift back and forth between the parties based on certain legal principles.

"Burden of Proof" means the obligation to prove affirmatively a fact or set of facts at issue between two parties. ~~[If proven, the opposing party then has a burden of proving any affirmative defense.]~~

"CSRO" means the agency of state government that statutorily administers these grievance procedures according to Sections 67-19a-101 through 67-19a-406.

"Closing Argument" means a party's final summation of evidence and argument, which is presented at the conclusion of the hearing.

"Consolidation" means the combining of two or more grievances involving the same controversy for purposes of holding a joint hearing, proceeding, or administrative review.

"Continuance" means an authorized postponement or adjournment of a hearing until a later date, whether the date is specified or not.

"Declaratory Order" means a ruling that is explanatory in purpose; it is designed to clarify what before was uncertain or doubtful. A declaratory order constitutes a declaration of rights between parties to a dispute and is binding as to both present and future rights. It is an administrative interpretation or explanation of a right, statute, order or other legal matter under a statute, rule, or an order.

"Default" means an omission of or untimely failure to take or perform a required act in the processing of a grievance. It is the failure to discharge an obligation which results in a forfeiture.

"Deposition" means a form of discovery in which testimony of a witness is given under oath, subject to cross-examination, and recorded in writing, prior to the hearing.

"Discovery" means the prehearing process whereby one party may obtain from the opposing party, or from other individuals or entities, information regarding the witnesses to be called, the documents and exhibits to be used at the hearing, and the facts and information about the case.

"Evidentiary Hearing" means a proceeding of relative formality, though much less formal than a trial, in which witnesses may be heard and evidence is presented and considered. Specific issues of fact and of law are tried. Afterwards, ultimate conclusions of fact and of law are set forth in a written decision or order.

"Excusable Neglect" means ~~[the exercise of due diligence by a reasonably prudent person and constitutes]~~ a failure to take proper steps at the proper time, not in consequence of the person's own carelessness, inattention, or willful disregard in the processing of a grievance, but in consequence of some unexpected or unavoidable hindrance or accident.

"Extraordinary Circumstances" means factors not normally incident to or foreseeable during an administrative proceeding. It includes circumstances beyond a party's control that normal prudence and experience could not foresee, anticipate or provide for.

"File" means to submit a document, grievance, petition, or other paper to the CSRO as prescribed by these rules. The term "file" includes faxing and E-mailing.

"Filing Date" means the day that a document, grievance, petition, or other paper is recorded as having been received by the CSRO.

"Grievance Procedures" mean the grievance and appeal procedures codified at Sections 67-19a-101 through 67-19a-406 and promulgated through this rule.

"Grievant" means the person or party advancing one or more issues as a petitioner through these grievance procedures to the evidentiary/step 4 level.

"Group Grievance" means a grievance submitted and signed by two or more aggrieved employees. The term does not include "class action."

"Hearing" means the opportunity to be heard or present evidence in an administrative proceeding.

"Hearing Officer" means an impartial trier of facts appointed by the CSRO administrator and assigned to decide a particular grievance case at the evidentiary/step 4 level.

"Hearsay Evidence" means evidence not based upon a witness's personal knowledge as a direct observer of an event. Rather, hearsay evidence stems from the repetition of what a witness heard another person say. Hearsay's value rests upon the credibility of the declarant. Hearsay is a statement made outside of the hearing that is offered as evidence of the truth of matters asserted in the hearing.

"Initial Hearing" means a hearing conducted by the administrator to make an initial determination regarding timeliness, authority, jurisdiction, direct harm, standing and eligibility to advance a grievance issue to the evidentiary/step 4 level.

"Issuance" means the date on which a decision, order or ruling is signed and dated; it is not the date of mailing, or the date of the mailing certificate, nor the postal date. Date of issuance is the date specified according to Subsection 63G-4-401, of the UAPA.

"Joint Hearing" means the uniting of two or more grievances involving the same, similar, or related circumstances or issues to conduct a single hearing; also see "Consolidation."

"Jurisdiction" means the legal right and authority to hear and decide issues and controversies.

"Management Representative" means a person of managerial or supervisory status who is not subject to exclusion. Legal counsel is not included within the meaning of the term.

"Motion" means a request offered verbally or in writing for a ruling or to take some action.

"Motion to Dismiss" means a motion requesting that a grievance or appeal be dismissed because it does not state a claim for which the CSRO provides a remedy, or is in some other way legally insufficient.

"Notice" and "Notification" mean a proper written notice to the parties involved in a grievance procedural hearing or conference, setting forth date, time, location, and the issue to be considered.

"Pleadings" mean the formal written allegations of the parties that set forth their respective claims and defenses.

"Presiding Hearing Officer" means either the Administrator or designated evidentiary/step 4 hearing officer.

"Pro Se" means in one's own behalf. A person is represented pro se in an administrative proceeding when acting without legal counsel or other representation.

"Quash" means to cancel, annul, or vacate. ~~[-a subpoena.]~~

"Relevant" means directly applying to the matter in question; pertinent, germane. It is evidence that tends to make the existence of any facts more probable or certain than they would be without the evidence; and tending to prove the precise fact at issue.

"Remand" means to send back, as for further deliberation and judgment, to the presiding official or other tribunal from which a grievance was appealed.

"Standard of Proof" means the evidentiary standard, which in CSRO adjudications is the substantial evidence standard.

"Stay" means a temporary suspension of a case or of some designated proceeding within the case. A stay is different than a continuance or extension of time and can only be granted when agreed to by the parties and when the administrator or assigned hearing officer finds a stay necessary for judicial economy and the interest of justice.

"Submit" means to commit to the discretion of another; to present for determination.

"Subpoena" means a formal legal document issued under authority to compel the appearance of a witness at an administrative proceeding, the disobedience of which may be punishable as a contempt of court.

"Subpoena Duces Tecum" means a formal legal document issued under authority to compel specific documents, books, writings, papers, or other items.

"Substantial Evidence" means evidence possessing something of substance and relevant consequence, and which furnishes substantial basis of fact from which issues tendered can be reasonable[ly] resolved. It is evidence that a reasonable mind might accept as adequate to support a conclusion, but is less than a preponderance.

"Summary Judgment" means a ruling made upon motion by a party or the presiding hearing officer when there is no dispute as to either material fact or inferences to be drawn from undisputed facts, or if only a question of law is involved. The motion may be directed toward all or part of a claim or defense.

"Transcript" means an official verbatim written record of an adjudicative proceeding or any part thereof, which has been recorded and subsequently transcribed by a certified court reporter.

"UAPA" means the Utah Administrative Procedures Act found at Sections 63G-4-102 through 63G-4-601.

"Withdraw" means to recall or retract a grievance from further consideration under these grievance procedures.

"Witness Fee" means an appearance fee and may also include a mileage rate established by statutory provision pursuant to Section 78B-1-119.

"Working Days" means for purposes of the time periods for filing a grievance, advancing an appeal or responding to an employee's grievance or appeal, all days except Saturdays, Sundays and recognized State holidays.

R137-1-10. Eligibility to Grieve.

(1) Standing. Only executive branch career service employees and reporting employees alleging retaliatory action, as defined by Subsections 67-19a-101(7) and 67-19a-101(8), may use these grievance procedures.

(a) Pursuant to Subsection 67-19-16[-](6) and Section 67-19a-301, the CSRO has no jurisdiction over grievance petitions filed by probationary employees, public applicants, exempt employees, noncareer service employees, public employees of the state's political subdivisions, public employees covered by other grievance systems, or employees of state institutions of higher education.

(2) Questionable Standing. Where a question or dispute exists whether an employee qualifies to use these grievance procedures, such controversies must be resolved through application of R137-1-17 by the administrator. The administrator's determination shall be final and subject to review only in the Utah Court of Appeals for formal adjudications and in the district court for informal adjudications according to Subsections 67-19a-301(2) and 67-19a-403(2)(a)(i), and Sections 63G-4-402 and 63G-4-403 of the UAPA.

(3) Class Action. Pursuant to Subsection 67-19a-401(8), class action grievances will not be admissible for consideration by the CSRO under these grievance procedures.

(4) Group Grievance. A group grievance is admissible provided that each aggrieved employee signs the grievance, according to Subsections 67-19a-401(8)(a) and (b).

R137-1-11. Issues Appealable to the Evidentiary/Step 4 Level.

~~(1)~~ All grievances shall be reviewed to determine:

(1) Whether the matters or issues raised in a grievance fall within the CSRO's limited jurisdiction as set forth in Subsections 67-19a-202(1)(a) and 67-19a-202(1)(6), or

(2) Whether any issues or components of a grievance were satisfactorily resolved at an earlier step in the grievance procedures. Matters or issues resolved at an earlier step in the grievance procedures may not be advanced to the CSRO.

R137-1-12. Employees' Rights.

(1) Representation. The state does not provide legal counsel or representation to aggrieved employees nor pay the fees for an employee's representation. Also, Subsection 67-19a-406(4)(a) precludes the CSRO from~~the~~ awarding ~~of~~ fees or costs to an employee's attorney or representative. Pursuant to Subsection 67-

19a-402.5(6)(a), an appellate court may award costs and attorney fees, accrued at the appellate court level, to a prevailing employee in a retaliatory action grievance.

(2) Pro Se Status. A party or person to a grievance proceeding may ~~be represented~~ appear pro se. When a party or person ~~is represented~~ appears pro se, the party or person is entitled to request the issuance of subpoenas, directly examine and cross-examine witnesses, make opening and closing statements, submit documentary evidence, summarize testimony, and in all respects fully present one's own case.

(3) No Reprisal. Pursuant to Subsection 67-19a-303(3), no appointing authority, director, manager, or supervisor may take action to retaliate against a grievant, a representative, or a witness who participates in or is scheduled to participate in a grievance proceeding.

R137-1-13. Automatic Processing, Waiver, Excusable Neglect, Abandonment of Grievance, Default, Transfer and Stay.

(1) Automatic Processing. An agency's failure to reply in writing to an aggrieved employee's grievance within the prescribed time period automatically grants the aggrieved employee the right to advance the grievance to the next step of these grievance procedures listed in Section 14 (below). ~~However, p~~ Pursuant to Subsection 67-19a-401(2), the parties may mutually agree to waive or extend steps 1, 2, or 3 or extend the statutory time period for those steps. Waivers of the statutory time periods by agency management and the aggrieved employee must be in writing and submitted to the administrator.

(2) Waiver. When the administrator finds that a grievance is one that an agency cannot resolve because of the nature of the grievance, the matter may be waived in writing to a higher level. Steps 1, 2, or 3 may be waived, but not step 4. Any waiver agreed to between the parties must be in writing, dated and submitted to the administrator according to Subsection 67-19a-401(2) and (3).

(3) Excusable Neglect. The standard of excusable neglect may be offered as a defense to lack of timeliness in processing a grievance or for not appearing at a scheduled proceeding.

(a) The administrator or appointed CSRO hearing officer shall determine the applicability of the excusable neglect standard when offered as a defense to lack of timeliness or not appearing at a scheduled proceeding.

(b) All questions are to be resolved at the original level of occurrence.

(4) Abandonment of Grievance. In the event the administrator or CSRO hearing officer determines that a grievance claim has been withdrawn, abandoned, or otherwise neglected beyond either the established time lines or a reasonable period, the matter no longer qualifies for further processing through these grievance procedures. When withdrawal is intended, it should be accomplished in writing.

(5) Default. An employee who defaults in processing a grievance forfeits further rights granted by these rules and under Section 63G-4-209 of the UAPA, which is incorporated by reference.

(6) Transfer. The administrator may administratively transfer a grievance ~~ease~~ from the aggrieved employee's department to another, more appropriate department to respond as necessary to serve the ends of justice and fairness.

(7) Stay. Upon written request, the administrator or the CSRO hearing officer may grant a stay of a decision, order, ruling, remedy, or proceeding. However, stays may be granted only when agreed to by the parties and when the administrator or assigned hearing officer finds a stay necessary for judicial economy and the interest of justice.

R137-1-14. Grievance Procedure Steps.

Persons acting on grievances pursuant to Sections 67-19a-402 and 67-19a-402.5, and in accordance with these rules, shall conduct their filings through the following steps, or levels, of increasing accountability:

Step 1; A written grievance shall be submitted to the employee's immediate supervisor. A standard grievance form is available from the CSRO. Once submitted, the written grievance then becomes a formal complaint necessitating a response. Steps 2 and 3 also necessitate responses within time periods outlined in Section 67-19a-402. Such responses are to be issued by only one supervisor, director, etc. at each step.

Step 2; If the grievance is not resolved at step 1, the employee may advance their grievance to step 2. Step 2 requires the grievance be reviewed by the agency or division director or designee;

Step 3; If the grievance is not resolved at step 2, the employee may advance their grievance to step 3. Step 3 requires the grievance be reviewed by the department head, executive director, commissioner or their designated representative.

Step 4; If the grievance is not resolved at step 3, the employee may advance their grievance to step 4. Step 4 is an evidentiary de novo hearing conducted before a CSRO hearing officer.

The purpose for the above steps, or levels, is to curtail employees from having to submit their grievances to persons in agency management not specified in the above steps or levels. Only the above-listed persons (or their designated representatives) in agency management are authorized to respond to state employees' grievances.

R137-1-17. Initial Review by Administrator.

When an employee advances a grievance to the CSRO or directly appeals a department head's decision to the CSRO, the administrator shall make an initial determination of whether the CSRO has authority to review or decide the grievance or appeal. In order to make this determination, the administrator may hold an initial adjudicative hearing in accordance with Subsections 67-19a-403(2), 67-19a-402.5(2)(b)(i) and Section 63G-4-206 or conduct an informal adjudicative review of the file in accordance with Subsections 67-19a-403(2), 67-19a-402.5(2)(b)(ii) and Section 63G-4-202 which are incorporated by reference.

(1) Procedural Issues. The administrator shall make an initial determination of the following: timeliness, direct harm, jurisdiction, standing, eligibility of the issues to be advanced, and any other procedural matters or jurisdictional controversies according to Sections 67-19a-402.5, 67-19a-403 and 67-19a-404.

(2) Determination. The administrator has authority to determine which types of grievances may be heard at the evidentiary/step 4 level. Those types of grievances found to have been resolved at a lower level or those that do not qualify for advancement to the evidentiary/step 4 level are precluded from

further consideration in any grievance submitted for CSRO consideration.

(3) Preclusion. Those types of actions not listed in Subsections 67-19a-202(1)(a) or 67-19a-202(1)(b) and referenced in Subsection 67-19a-302(1) and 67-19a-302(3) are precluded from advancement to the evidentiary/step 4 level. When the grievance is precluded from the evidentiary/step 4 level, the matter under dispute shall be deemed as final at the level of the department head/step 3 according to Subsection 67-19a-302(2).

(4) Reconsideration. A written request for reconsideration may be filed with the administrator. It must be filed within 20 days from the date the administrator issues a decision regarding whether the CSRO has authority to review or decide a grievance or appeal. Section 63G-4-302 of the UAPA incorporated by reference. The written reconsideration request must contain specific reasons why a reconsideration is warranted with respect to the factual findings and legal conclusions of the hearing decision or administrative review of the file decision. New or additional evidence may not be considered.

(5) Judicial Review.

(a) The aggrieved employee or the responding agency may appeal the administrator's initial adjudicative hearing decision and final agency action to the Utah Court of Appeals within 30 calendar days from the date of issuance according to Subsection 63G-4-401(3)(a) and Section 63G-4-403 of the UAPA which are incorporated by reference.

(b) The aggrieved employee or the responding agency may appeal the administrator's informal adjudicative decision and final agency action of an administrative review of the file to the district court according to Sections 63G-4-402 and 63G-4-404 of the UAPA which are incorporated by reference.

(c) A decision reached by the CSRO in reviewing a retaliatory action grievance from a reporting employee, as defined by Subsections 67-19a-101(7) and 67-19a-101(8), may be appealed to the Utah Court of Appeals.

(6) Summary Judgment. The administrator or the ([p]Presiding Officer, Utah Code Ann. Section 63G-4-103(1)(h)(i)) hearing officer may, pursuant to an administrative review of the procedural facts and circumstances of a grievance case, summarily dispose of a case on the ground that:

- (a) the matter is untimely;
- (b) the grievant has failed to appear at the properly scheduled date, time, and place pursuant to written notice;
- (c) the grievant lacks standing;
- (d) the grievant has withdrawn or otherwise abandoned the grievance;
- (e) the grievant has not been directly harmed;
- (f) the issue grieved does not qualify to be advanced beyond step 3; or
- (g) the requested remedy or relief exceeds the scope of these grievance procedures.

(7) Transcription and Transcript Fees. If a party appeals the administrator's initial adjudicative hearing decision to the Utah Court of Appeals or to the district court, the appealing party is responsible for paying all transcription costs and any transcript fees. The CSRO does not participate in the payment of these fees when appeals are taken to the appellate or trial court. See Utah Rules of Appellate Procedure, Rule 11, and Section 63G-4-403(3), regarding transcript costs from formal adjudications under the UAPA.

R137-1-18. Procedural Matters.

The provisions under this section pertain to initial administrative and evidentiary/step 4 proceedings before the CSRO.

(1) Purpose. A formal adjudicative proceeding provides a fair and impartial opportunity for the parties to be heard and to present their evidence. The adjudicative process allows the CSRO administrator or the CSRO hearing officer to be completely informed about the case. After having considered the parties' evidence, the CSRO administrator or the CSRO hearing officer may then render a proper determination based upon all of the facts, circumstances, and applicable laws, rules and policies.

(2) Types of Adjudications. For purposes of Section 63G-4-202 of the UAPA:

(a) All initial administrative and evidentiary/step 4 adjudications at the CSRO are formal adjudicative proceedings. Sections 63G-4-205 through 63G-4-209, 63G-4-401 and 63G-4-403 through 63G-4-405 of the UAPA are incorporated by reference within this rule and are applicable to these adjudicative proceedings.

(b) An administrative review of the file, pursuant to Subsections 67-19a-403(2) and 67-19a-402.5(2)(b)(2), is an informal adjudicative proceeding with Sections 63G-4-203, 63G-4-402, and 63G-4-404 of the UAPA incorporated by reference.

(3) Rules of Evidence/Procedure Inapplicable. The technical rules of evidence and the formal rules of civil procedure as observed in the courts of law are inapplicable to these grievance procedure proceedings, except for the rules of privilege as recognized by law and those specific references to the rules of evidence and procedure as set forth in the UAPA.

(4) Expelling. The presiding CSRO hearing officer may clear the proceeding of witnesses not under examination and may exclude any unruly or disruptive person. The hearing officer may also expel any persons whose presence is antagonistic, oppressive, intimidating or appears to have a chilling effect on the witness under examination.

(5) Presentation of Case. Each party[~~'s representative~~] is given the opportunity to make an opening statement[~~At the appropriate time, each party's representative is given the opportunity~~] and to present evidence. After [~~each party's representative has presented its respective case,~~] the evidence is closed, each party [the moving party, followed by the responding party,] may offer a closing argument. The moving party may offer one rebuttal. Continuous rebuttal is not permissible.

(6) Objections.

(a) When an objection is made as to the admissibility of evidence, the presiding CSRO hearing officer shall note the objection for the record and make a ruling or take the objection under advisement to be ruled upon later. [~~A ruling is then made by the presiding CSRO hearing officer, or the objection may be taken under advisement to be ruled upon later.~~]

(b) The presiding CSRO hearing officer has discretion to exclude inadmissible evidence and to order that cumulative or repetitive evidence be discontinued.

(c) A party objecting to the introduction of evidence must state the precise grounds of the objection at the time such evidence is offered.

(7) Marking Exhibits. All exhibits shall be numerically marked and labeled in the order received into evidence, unless previously marked and labeled.

(8) Motion to Dismiss. The administrator or CSRO hearing officer may, upon a party's motion or upon their own motion, dismiss the grievance or appeal before the CSRO.

(9) Consolidation of Grievances. Grievances of the same or of a sufficiently similar context may be consolidated by the administrator for purposes of conducting a single or joint hearing.

(10) Standard of Proof. In all CSRO adjudicative proceedings, the standard of proof is the substantial evidence standard according to Subsections 67-19a-406(2) and 67-21-3.5.

(11) Hearsay Evidence. Hearsay evidence is admissible in CSRO formal adjudicative proceedings as qualified by Subsection 63G-4-208(3) of the UAPA which is incorporated by reference.

(12) Discovery. The following rule provisions satisfy Section 63G-4-205 of the UAPA on discovery.

(a) Discovery shall be limited to that which is relevant and nonprivileged, and for which each party has a substantial, demonstrable need for supporting their respective claims or defenses.

(b) At the discretion and approval of the administrator or appointed CSRO hearing officer, parties to a dispute may obtain discovery. The CSRO administrator or hearing officer has discretion to entertain discovery motions [~~to conduct discovery~~] on a case-by-case basis regarding the following:

(i) production of documents, records and things under Utah Rule 34 of Civil Procedure; and

(ii) depositions only when a proposed witness is unavailable for giving testimony at a scheduled hearing.

(c) No other form of discovery is permitted.

(d) Witness lists and copies of exhibits shall be offered by each party to the opposing party and to the presiding CSRO hearing officer during a prehearing/scheduling conference, unless the exchange is scheduled for a later date.

(i) Each party's list of witnesses shall contain a brief statement describing the nature of the proposed testimony to be offered by each witness.

(ii) A party may not surprise the opposing party with a witness or an exhibit at the hearing which was not made known at the prehearing/scheduling conference, or by a scheduled exchange date, unless the witness or exhibit is in direct rebuttal to admitted opposing evidence. Also refer to R137-1-7(1)(c).

(13) Page Limitation.

(a) Written motions, pleadings, briefs, and memoranda for all CSRO proceedings may not exceed 20 typed, double-spaced 8-1/2 x 11 inch pages, exclusive of any statement of facts. Reply briefs may not exceed ten pages.

(b) An application for an exception to the above-stated page limitation provisions must be timely filed in writing, and not more than ten double-spaced 8-1/2 x 11 inch pages in a 12-point font. The applicant party has the burden to offer sufficient justification for requests more than 20 and 10 pages respectively to the CSRO for the granting of any exceptions to the page limitation provision.

(c) The CSRO may weigh all requests to exceed the page limitation provision based upon the reasonableness and necessity of such requests in light of each case and its circumstances. The CSRO does not automatically grant exceptions simply on the basis of a request.

R137-1-19. Witnesses.

(1) Availability of State Employees to Testify. An agency shall be responsible for making available any of its employees who are subpoenaed to testify in a hearing.

(a) Off Duty Employees. Agencies are not responsible for making available an employee who is: off duty; on sick, annual or other approved leave; or who, for any other reason, is not at work during the time the hearing is in progress.

(b) Nondisruption. The parties and their representatives, the administrator and the CSRO hearing officer shall make every effort to avoid disruption to the operation of state government in the calling of state employees to testify in hearings under these grievance procedures.

(c) Witness Failure. If a requested witness does not appear at the scheduled hearing, the witness's failure to appear may not necessitate the postponement of any proceedings.

(d) Excessive Witnesses. If the number of witnesses requested by a party is excessive, the administrator or the CSRO hearing officer may require the party to justify the request or face denial of part or all of the request.

(e) Witness Fees and Mileage Fees. A witness fee and a mileage fee are available to nonstate employees and to state employees who use nonworking hours if their presence is required in a grievance proceeding as a witness according to Section 78B-1-119. The CSRO reserves the right to determine on an individual case basis whether it will authorize a travel fee, and to what extent, for an out-of-state witness called by a party.

(2) Hostile Witnesses. When the presiding CSRO hearing officer determines that a witness is uncooperative or even hostile, the witness may be examined by the party calling that witness as if under cross-examination. The party calling the witness may, upon showing that the witness was called in good faith but that the testimony is a surprise, proceed to impeach the witness by proof of prior inconsistent statements.

(3) Exclusion/Sequestering of Witnesses.

(a) The presiding CSRO hearing officer may sequester witnesses from the hearing until they are called to testify.

(b) Witnesses not presently testifying may be sequestered on motion by one or both parties or in the presiding hearing officer's discretion.

(c) The presiding CSRO hearing officer will counsel the witnesses not to discuss the case with those witnesses who have not yet testified.

(4) Management Representative. Prior to every hearing the agency may designate [a]one person to serve as the agency's management representative. The agency's management representative is entitled to remain throughout the hearing to represent the agency at any proceeding even if called to testify, unless the hearing officer determines it is reasonable to expel the management representative for any or part of the hearing. ~~Neither the grievant nor the management representative may be excluded from the hearing.]~~

KEY: grievance procedures, reconsiderations

Date of Enactment or Last Substantive Amendment: [February 21, 2012]2013

Notice of Continuation: July 18, 2011

Authorizing, and Implemented or Interpreted Law: 34A-5-106; 67-19-16; 67-19-30; 67-19-31; 67-19-32; 67-19a et seq.; 63G-4 et seq.

Education, Administration
R277-411
School District Sponsored School
Seminars on Youth Protection-Related
Issues

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 37634

FILED: 05/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to provide information and timelines to school districts that allow and assist school districts in satisfying their responsibilities regarding parent seminars on specific issues.

SUMMARY OF THE RULE OR CHANGE: The new rule provides definitions, Utah State Board of Education (USBE)/Utah State Office of Education (USOE) responsibilities, and school district responsibilities and timelines for providing parent seminars on designated issues.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. Existing staff within existing budgets will provide curricula, materials and resources to the extent of resources available as required under the law.

◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. As with the state, it is anticipated that existing staff within existing budgets will satisfy the responsibilities for parents seminars consistent with the law.

◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule applies to public education and does not affect businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The responsibilities are with the USBE/USOE and school districts.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The USBE/

USOE will provide curricula, materials and resources to the extent of resources available as required under the law and school districts will provide parent seminars as required under the law.

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.

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 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 NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

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

R277. Education, Administration.

R277-411. School District Sponsored School Seminars on Youth Protection-Related Issues.

R277-411-1. Definitions.

A. "Board" means Utah State Board of Education

B. "Opt-out," provided for in Section 53A-15-1302(5), means a written statement provided by a local school superintendent to the Board stating that the local board determined that the topics of substance abuse, bullying, mental health, depression, suicide awareness and internet safety are not of significant interest to families in the school district.

C. "School-sponsored parent seminar" means a meeting held at the school where school personnel or others invited by the school discuss topics identified in Section 53A-15-1302(2) with those in attendance.

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

E. "Youth protection-related issues" means the issues identified in Section 53A-15-1302(2) including substance abuse, including illegal drugs and prescription drugs and drug use prevention; bullying and related problems; student mental health, depression and student suicide awareness; internet safety for students, including pornography addiction and other student-health related problems or issues, as identified by a school district.

R277-411-2. Authority and Purpose.

A. The rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public

education in the Board, by Section 53A-15-1302 which directs the Board to provide resources to school districts about youth protection related issues, directs the Board to accept opt-out information from local school boards and directs the Board to report to the Education Interim Committee about school district activities. The rule is also authorized by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to provide information and timelines to school districts that allow and assist school districts in satisfying their responsibilities under 53A-15-1302.

R277-411-3. Board/USOE Responsibilities.

A. The USOE shall provide resources, model curricula and additional information as required under Section 53A-15-1302(2) before August 30, 2013.

B. To the extent of resources available, the USOE shall provide curricula, materials and resources in both electronic and paper formats.

C. To the extent of resources available and if requested, the USOE shall make staff and consultants available to assist school districts with anticipated training and parent meetings.

D. If school districts provide written opt-out notification to the Board, the Board shall review those documents for sufficiency and satisfaction of the law's requirements and notify school districts in a timely manner.

E. The USOE shall request information from school districts under Section 53A-15-1302(4)(a),(b),(c), and (d) to compile information for the Board's November 2014 report to the Education Interim Committee. The Board may also request information and data from school districts and charter schools in order to develop meaningful curricula and materials to assist school districts.

R277-411-4. School District Responsibilities and Timelines.

A. A local school board that desires to provide an opt-out notification to the Board shall do so before September 30, 2013.

B. The Board shall notify a local school board/school district that the opt-out notification was received and was complete and consistent with the law before October 30, 2013.

C. The notification received from a local school board and the USOE's response shall be maintained by the USOE.

KEY: seminars, students, youth protection

Date of Enactment or Last Substantive Amendment: 2013

Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-15-1302; 53A-1-401(3)

Education, Administration
R277-491
School Community Councils

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 37636

FILED: 05/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed and reenacted because changes are extensive.

SUMMARY OF THE RULE OR CHANGE: The reenacted rule amends the purpose statement to align with the Utah Code; redundant election provisions are eliminated; election provisions are clarified to align with new code; separate section on local board and district requirements; training details are specified; separate section on principal requirements; separate section on chair requirements; new language on chair setting agendas and conducting business; separate section on school community council business; and separate section on developing plans.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The repealed/reenacted rule provides changes consistent with Utah law, provides clarification, and streamlines the rule which does not result in a cost or savings.

◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. The repealed/reenacted rule provides changes consistent with Utah law, provides clarification, and streamlines the rule which does not result in a cost or savings.

◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule applies to public education and does not affect businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The repealed/reenacted rule provides changes consistent with Utah law, provides clarification, and streamlines the rule which does not result in a cost or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The repealed/reenacted rule provides changes consistent with Utah law, provides clarification, and streamlines the rule which does not result in compliance costs.

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.

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 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 NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

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

R277. Education, Administration.**[R277-491. School Community Councils.****R277-491-1. Definitions.**

- ~~_____~~ A. "Board" means the Utah State Board of Education.
- ~~_____~~ B. "Candidate" means a parent or school employee who has filed for election to the school community council.
- ~~_____~~ C. "Contested race" means the election of members to a school community council when there are more candidates than open positions.
- ~~_____~~ D. "Days" means calendar days unless otherwise specifically designated.
- ~~_____~~ E. "Educator" means a person who holds a current license and is employed by the school district where the person's child attends school.
- ~~_____~~ F. "Parent" means the parent or guardian of a student attending a school district public school.
- ~~_____~~ G. "Parent or guardian member":
- ~~_____~~ (1) means a member of a school community council who is a parent or guardian of a student who is attending the school; will be enrolled at the school at any time during the parent's or guardian's initial term of office; or was enrolled at the school during the parent or guardian member's initial term of office;
- ~~_____~~ (2) may not include an educator who is employed at the school.
- ~~_____~~ H. "School administrator" means a school principal, school assistant principal or designee as specifically assigned by the school district.
- ~~_____~~ I. "School community" means the geographic area designated by the school district as the attendance area with reasonable inclusion of the parents or legal guardians of additional students who are attending the school.
- ~~_____~~ J. "School community council" means the council organized at each school district public school as established in Section 53A-1a-108 and R277-491. The council includes the principal or designee, school employee members and parent members. There shall be at least a two parent member majority.
- ~~_____~~ K. "School employee member" means a member of a school community council who is a person employed at a school by the school or school district, including the principal.
- ~~_____~~ L. "Secure ballot box" means a closed container prepared by the school for the deposit of secret ballots for the school community council elections.
- ~~_____~~ M. "Student" means a child in public school grades kindergarten through twelve counted on the audited October 1 Fall Enrollment Report.

~~_____~~ N. "USDB" means the Utah Schools for the Deaf and the Blind.

~~_____~~ O. "USOE" means the Utah State Office of Education.

R277-491-2. Authority and Purpose.

~~_____~~ A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board and by Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.

~~_____~~ B. Local boards of education for school districts and the State Charter School Board for state-sponsored charter schools are responsible for school community council operations, plans, oversight, and training.

~~_____~~ C. The purpose of this rule is to:

~~_____~~ (1) provide procedures and clarifying information to school community councils to assist them in fulfilling school community council responsibilities consistent with Section 53A-1a-108(3);

~~_____~~ (2) provide direction to school districts and schools in establishing and maintaining school community councils whose primary focus is to develop, approve, and assist in implementing school improvement plans, and advise school/school district administrators consistent with Sections 53A-1a-108(3) and 53A-16-101.5;

~~_____~~ (3) provide a framework and support for improved academic achievement of students that is locally driven from within individual schools, through critical review of testing results and other indicators of student success, by establishing meaningful, measurable goals and implementing research-based programs and processes to reach the goals;

~~_____~~ (4) encourage increased participation of the parents, school employees and others that support the purposes of the school community councils; and

~~_____~~ (5) encourage compliance with the law.

R277-491-3. School Community Council Member Election Provisions.

~~_____~~ A. Notice of the school community council elections shall be provided at least 10 days prior to the elections. The notice shall include the dates and times of the election, the positions that are up for election and instructions about becoming a candidate.

~~_____~~ B. Parents may stand for election as parent members of a school community council at a school consistent with the definition of parent member in R277-491-1G.

~~_____~~ C. Parents may vote for the school community council parent members if their child(ren) are enrolled at the school.

~~_____~~ D. School community councils may establish procedures that allow for ballots to be clearly marked and mailed to the school in the case of geography or school distances that would otherwise discourage parent participation. Hand-delivered or mailed ballots shall meet the same timelines for voters voting in person.

~~_____~~ E. Entire school districts or schools may allow parents to vote by electronic ballot. If school districts/schools allow voting by electronic means, the opportunity shall be clearly explained on the school district/school website including:

~~_____~~ (1) directions for electronic voting;

~~_____~~ (2) security provisions for electronic voting;

~~_____~~ (3) statement to parents and community members that violations of a school district's/school's voting procedures may

disqualify a parent's vote or invalidate a specific school election, or both;

~~_____~~ (4) how a parent may vote by paper ballot, if preferred.

~~_____~~ F. Ballots and voting are required only in the event of a school community council contested race. Ballots and the results of each election shall be maintained for three years.

~~_____~~ G. School community councils are encouraged to establish clear and written:

~~_____~~ (1) procedures that are consistent with state law, Board rules, and local board policies;

~~_____~~ (2) procedures for the election of school community council chairs, co-chairs or vice chairs;

~~_____~~ (3) timelines and procedures for school community council elections that may include receiving information from applicants in a timely manner; and

~~_____~~ (4) additional clarification and procedures to assist in the efficient operation of school community councils consistent with the law.

~~_____~~ H. Elections shall begin no later than 30 days after the first day of school. Voting for parent/guardian members shall extend for at least three consecutive school days and be completed no later than 35 days after the first day of school.

~~_____~~ I. Following the election, if there are more parent members who are educators in the district than parents who are not educators in the district elected to the council, the parents on the council shall appoint additional parent members until the number of parent members who are not educators exceeds the number of parent educators in the district.

~~_____~~ J. Following the election, the principal shall enter and sign a Principal's Assurance Form that assures the school community council at the school was elected, and that vacancies were filled, as necessary, and that the school community council is properly constituted consistent with Section 53A-1a-108 and R277-477 and R277-491. The form shall be completed and uploaded to the School LAND Trust website.

~~_____~~ K. School community council members who were duly elected prior to May 8, 2012 shall be allowed to complete the term for which they were elected. All school community council members shall satisfy requirements of Section 53A-1a-108 in subsequent terms.

R277-491-4. School Community Council School/School Administrator Responsibilities.

~~_____~~ A. A school administrator may not serve as chair or co-chair of the school community council.

~~_____~~ B. A school or school district administrator shall not prohibit or discourage a school community council from discussing any issue or concern not prohibited by law raised by any school community council member.

~~_____~~ C. The school principal shall provide the following information to the school community:

~~_____~~ (1) Notice of dates, times and location of school community council elections at least 10 days before the elections are held, including:

~~_____~~ (a) timely notice of school community council positions that are up for election;

~~_____~~ (b) instructions for applying to become a school community council member together with timelines for submitting information and applications.

~~_____ (2) The school community council chair or designee shall post the school community council meeting information (time, place and date of meeting; meeting agenda and previous meeting draft minutes) on the school's website at least one week prior to each meeting.~~

~~_____ D. The school community council chair, assisted by the school administrator, shall provide the following information on the school website and in at least one other direct delivery method ensuring that all parents are notified as provided in Section 53A-1a-108:~~

~~_____ (1) Within the first six weeks of the school year, a list of the members of the school community council and each member's direct email or phone number, or both, and the school community council meeting schedule;~~

~~_____ (2) By November 15 of each year, a summary of the annual report about how the School LAND Trust Program funds were used to enhance or improve academic excellence at the school, consistent with Section 53A-1a-108.1(5)(b).~~

~~_____ E. The school community council chair, assisted by the school administrator, shall act in compliance with Section 53A-1a-108 including:~~

~~_____ (1) ensuring that council members receive annual training about the requirements of Sections 53A-1a-108, 53A-1a-108.1 and 53A-16-101.5;~~

~~_____ (2) posting draft minutes of the most recent meeting on the school website at least one week prior to the next meeting;~~

~~_____ (3) posting the agenda and location of the upcoming meeting on the school's website at least one week prior to the meeting;~~

~~_____ (4) assuring that written minutes are kept consistent with Section 53A-1a-108.1(8);~~

~~_____ (5) assuring that written minutes are maintained, as approved, for three years as the official record of action taken at each meeting; and~~

~~_____ (6) adopting a set of rules of order and procedures that the council shall follow to conduct a meeting. The rules shall be followed in conducting meetings, be posted on the school website and available at each meeting, and other required or appropriate activities.~~

~~_____ F. School community council responsibilities do not allow for closed meetings, consistent with Section 53A-1a-108.1.~~

R277-491-5. Parent Rights and Responsibilities.

~~_____ A. Parents of students attending a school shall receive notice of open school community council positions and of elections consistent with Section 53A-1a-108.~~

~~_____ B. Parents of students attending a school shall have access to schedules, agendas, minutes and decisions consistent with Sections 53A-1a-108(4) and (5).~~

~~_____ C. School community council parent members shall participate fully in the development of various school plans described in Section 53A-1a-108(3) including, at a minimum:~~

~~_____ (1) School Improvement Plan;~~

~~_____ (2) School LAND Trust Plan;~~

~~_____ (3) Reading Achievement Plan (for elementary schools);~~

~~_____ (4) Professional Development Plan; and~~

~~_____ (5) Child Access Routing Plan.~~

~~_____ D. Parents shall receive timely notice of school community council timelines and procedures that affect parent~~

~~member elections, school community council meeting information and other parent rights or opportunities, consistent with state law, Board rules, and local board policy.~~

~~_____ E. School websites shall fully communicate the opportunities provided to parents about serving on the school community council and how parents can directly influence the expenditure of the School LAND Trust funds. The website should include the dollar amount received each year through the program.~~

R277-491-6. Additional School Community Council Information and Provisions.

~~_____ A. School community councils shall set the beginning terms for school community council members consistent with Section 53A-1a-108(5)(g).~~

~~_____ B. Training for members of school community councils shall be provided under the direction of local boards of education, including providing applicable sections of the statutes and Board rules to council members.~~

~~_____ C. School community councils shall report on plans, programs, and expenditures, including detailed descriptions of expenditures for professional development, at least annually to local boards of education and cooperate with the legislative and USOE monitoring, and audits.~~

~~_____ D. School community councils may establish procedures and requirements for parent notification and election timelines that are not inconsistent with Sections 53A-1a-108, 53A-16-101.5, 52-4-101 et. seq., this rule, or local board policy.~~

~~_____ E. Public schools that are secure facilities, juvenile detention facilities, hospital program schools, and other small special programs may receive all funds available to schools with school community councils if the schools demonstrate and document a good faith effort to recruit members, have meetings and publicize results as recognized and affirmed by local boards of education.~~

~~_____ F. School community councils shall encourage greater participation on the school community council and may recruit potential applicants to apply for open positions on the council.~~

~~_____ G. Local boards of education may ask school community councils to address local issues at the school community council level for discussion before bringing the issues to local boards of education. School community councils may be asked for information to inform local board decisions.~~

~~_____ H. Local boards of education shall provide copies of statutory information (Section 53A-1a-108, School community councils authorized -- Duties -- Composition -- Election procedures and selection of members; Section 53A-1a-108.1, School Community Councils -- Open and public meeting requirements; Section 53A-1a-108.5, School improvement plan; Section 53A-16-101.5, School LAND Trust Program -- Purpose -- Distribution of funds -- School plans for use of funds) to school community council members.~~

~~_____ I. Local boards of education, and the State Charter School Board for state-sponsored charter schools, shall report approval dates of required plans to the USOE. School community councils are encouraged to advise and inform elected local board members.~~

~~_____ J. Local boards of education make decisions in governing school districts with superintendents and principals acting under the direction and in behalf of local board of education in all areas of governance, including implementing approved School Improvement~~

and School LAND Trust Program plans.

KEY: school community councils

Date of Enactment or Last Substantive Amendment: July 9, 2012

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3) R277-491. School Community Councils.

R277-491-1. Definitions.

- A. "Board" means the Utah State Board of Education.
- B. "Candidate" means a parent or school employee who has filed for election to the school community council.
- C. "Contested race" means the election of members to a school community council when there are more candidates than open positions.
- D. "Days" means calendar days unless otherwise specifically designated.
- E. "Educator" means a person who holds a current educator license and is employed by the school district where the person's child attends school.
- F. "Parent" means the parent or legal guardian of a student attending a school district public school.
- G. "Parent or legal guardian member":
- (1) means a member of a school community council who is a parent of a student who will be enrolled at the school at any time during the parent's or legal guardian's term of office; and
- (2) may not include an educator who is employed at the school.
- H. "School principal" means the principal of the school or designee as assigned by the principal.
- I. "School community" means the geographic area designated by the school district as the attendance area with reasonable inclusion of the parents and legal guardians of additional students who are attending the school.
- J. "School community council" means the council organized at each school district public school as established in Section 53A-1a-108 and R277-491. The council includes the principal, school employee members and parent members. There shall be at least a two parent member majority on each council.
- K. "School employee member" means a member of a school community council who is a person employed at a school by the school or school district, including the principal.
- L. "Secure ballot box" means a closed container prepared by the school for the deposit of secret ballots for the school community council elections.
- M. "Student" means a child in public school grades kindergarten through twelve counted on the audited October 1 Fall Enrollment Report.
- N. "USDB" means the Utah Schools for the Deaf and the Blind.
- O. "USOE" means the Utah State Office of Education.

R277-491-2. Authority and Purpose.

- A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, and by Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.
- B. Local boards of education are responsible for school community council operations, plan approval, oversight, and training.

C. The purpose of this rule is to:

- (1) provide procedures and clarifying information to school community councils to assist them in fulfilling school community council responsibilities consistent with Section 53A-1a-108(3);
- (2) provide direction to school districts and schools in establishing and maintaining school community councils whose primary focus is to develop, approve, and assist in implementing school plans, and advise school/school district administrators consistent with Sections 53A-1a-108(3) and 53A-16-101.5;
- (3) provide a framework and support for improved academic achievement of students that is locally driven from within individual schools, through critical review of assessments and other indicators of student success, by establishing meaningful, measurable goals and implementing research-based programs and processes to reach the goals;
- (4) encourage increased participation of the parents, school employees and others that support the purposes of the school community councils;
- (5) encourage compliance with the law; and
- (6) increase public awareness of:
- (a) school trust lands and related land policies;
- (b) management of the permanent State School Fund established in Utah Constitution Article X, Section 5; and
- (c) educational excellence.

R277-491-3. School Community Council Member Election Provisions.

- A. Each school shall establish a timeline for the election of parent or legal guardian members of a school community council; the timeline shall remain consistent for at least a four-year period.
- B. The election for the parent or legal guardian members of a school community council shall be held near the beginning of the school year, to be completed by October 15, or held in the spring and completed before the last week of school.
- C. If the election is held in the spring, the school community council shall attempt to notify parents of incoming students about the opportunity to run for the council, and provide those parents with the opportunity to vote in the election.
- D. Terms shall be for two years and shall be staggered so that approximately half of the council positions are elected each year.
- E. Public schools that are secure facilities, juvenile detention facilities, hospital program schools, and other small special programs may receive School LAND Trust Program funds without having a school community council if the schools demonstrate and document a good faith effort to recruit members, have meetings and publicize results. Such determination shall be as recognized and affirmed by the local board of education.
- F. Each school community council shall determine the size of the council by a majority vote of a quorum of council members, provided that the resulting council has at least one employee member, the principal, and a two person majority of parents.
- G. The principal shall provide notice of the school community council elections to the school community at least 10 days prior to the elections. The notice shall include the dates, times,

and location of the election, the positions that will be elected and information about becoming a candidate.

H. Parents and legal guardians may stand for election as parent members of a school community council at a school consistent with the definition of parent member in R277-491-1G.

I. School community councils are encouraged to establish clear and written timelines and procedures for school community council elections that may include receiving information from applicants in a timely manner.

J. Ballots and voting are required only if the school community council position(s) is contested.

K. Parents may vote for the school community council parent members if their child(ren) are enrolled at the school, or to the extent possible consistent with R277-491-3C.

L. School community councils may establish procedures that allow for ballots to be clearly marked and mailed to the school in the case of distances that would otherwise discourage parent participation. Hand-delivered or mailed ballots shall meet the same timelines for voters voting in person.

M. Entire school districts or schools may allow parents to vote by electronic ballot. If school districts or schools allow voting by electronic means, the opportunity shall be clearly explained on the school district or school website.

N. Following the election, if there are more parent members who are educators in that district than parents who are not educators in that district elected to the council, the parents on that council shall appoint additional parent members until the number of parent members who are not educators exceeds the number of parent educators in that district.

O. School community council members who were duly elected or appointed prior to a subsequent change in law or Board rule shall be allowed to complete the term for which they were elected. All school community council members shall satisfy requirements of Utah Code and Board rule in subsequent terms.

R277-491-4. Local School Board and School District Responsibilities Relating to School Community Councils.

A. Local boards of education may ask school community councils to address local issues at the school community council level for discussion before bringing the issues to local boards of education. School community councils may be asked for information to inform local board decisions.

B. The local school board, in compliance with Section 53A-1a-108, shall ensure that all council members receive annual training, including training for the chair and vice chair about their specific responsibilities, and about the school community council requirements of Sections 53A-1a-108, 53A-1a-108.1, 53A-16-108.5, and 53A-16-101.5.

C. A school or school district administrator shall not prohibit or discourage a school community council from discussing any issue or concern not prohibited by law and raised by any school community council member.

R277-491-5. School Community Council Principal Responsibilities.

A. Following the election, the principal shall enter and electronically sign on the School LAND Trust website a Principal's Assurance Form that assures the school community council at the

school was elected, and that vacancies were filled, as necessary, and that the school community council is properly constituted consistent with Section 53A-1a-108 and R277-477 and R277-491.

B. A principal may not serve as chair or vice-chair of the school community council.

C. Annually, on or before November 15, the principal shall provide the following information on the school website, in the school office, and if needed, through a method that the council decides is best for the parents at the school who do not have internet access, if needed, and as provided in Section 53A-1a-108 and 53A-1a-108.1:

(1) A list of the members of the school community council and each member's direct email or phone number, or both;

(2) The school community council meeting schedule; and
(3) A summary of the annual report about how the School LAND Trust Program funds were used to enhance or improve academic excellence at the school, consistent with Section 53A-1a-108.1(5)(b).

D. Principals shall ensure that school websites fully communicate the opportunities provided to parents to serve on the school community council and how parents can directly influence the expenditure of the School LAND Trust Program funds. The website shall include each school's dollar amount received each year through the program.

R277-491-6. School Community Council Chair Responsibilities.

A. After the council is seated each year, the chair shall be elected by the council from the parent members and the vice-chair shall be elected by the council from the parent or school employee members.

B. The school community council chair or designee shall:

(1) post the school community council meeting information (time, place and date of meeting; meeting agenda and previous meeting draft minutes) on the school's website at least one week prior to each meeting;

(2) set the agenda for every meeting;

(3) conduct every meeting;

(4) assure that written minutes are kept consistent with Section 53A-1a-108.1(8);

(5) inform council members on resources available on the School LAND Trust website;

(6) assure that the council adopts a set of rules of order and procedures, including procedures for electing the chair and vice-chair, that the chair shall follow to conduct each meeting. The rules shall be posted on the school website and be available at each meeting; and

(7) welcome and encourage public participation.

C. School community council responsibilities do not allow for closed meetings, consistent with Section 53A-1a-108.1.

R277-491-7. School Community Council Business.

A. School community councils shall report on plans, programs, and expenditures at least annually to local boards of education and cooperate with USOE monitoring and audits.

B. School community councils shall encourage participation on the school community council and may recruit potential applicants to apply for open positions on the council.

C. School community councils are encouraged to establish clear and written procedures governing the removal from

office of a member who moves away or consistently does not attend meetings, and additional clarifications to assist in the efficient operation of school community councils, consistent with the law and Board rule.

R277-491-8. Development of Plans.

A. School community council members shall participate fully in the development of various school plans described in Section 53A-1a-108(3) including, at a minimum:

(1) The School Improvement Plan;

(2) The School LAND Trust Plan;

(3) The Reading Achievement Plan (for elementary schools); and

(4) The Professional Development Plan.

B. School community councils are encouraged to advise and inform elected local school board members and other interested community members regarding the uses of these funds.

KEY: school community councils

Date of Enactment or Last Substantive Amendment: 2013

Notice of Continuation: May 15, 2013

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

Education, Administration
R277-614
Athletes and Students with Head Injuries

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37635

FILED: 05/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide amendments consistent with H.B. 58, Protection of Athletes with Head Injuries Act, 2013 General Legislative Session.

SUMMARY OF THE RULE OR CHANGE: The amended rule provides language that excludes recess and play time as periods to which Rule R277-614 and Title 26, Chapter 53, apply.

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

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The amendments to this rule do not affect the state. Local education agencies (LEAs) will revise their head injury policies to provide for the exclusion of "free play and recess" which does not result in a cost or savings.

♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. LEAs will revise their head injury policies to provide for the exclusion of "free play and recess" which does not result in a cost or savings.

♦ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses. This rule and the amendments to the rule affect public schools and do not affect businesses.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. LEAs will revise their head injury policies to provide for the exclusion of "free play and recess" which does not result in a cost or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. LEAs will revise their head injury policies.

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.

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 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 NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

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

R277. Education, Administration.

R277-614. Athletes and Students with Head Injuries.

R277-614-1. Definitions.

A. "Agent" means a coach, teacher, school employee, representative or volunteer under Section 26-53-102(1).

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

C. "Free play" means unstructured student play, games and field days during school hours.

[E]D. "LEA" means a public school or a public charter school.

[E]E. "Parent" means a parent or legal guardian of student for whom LEA is responsible.

F. "Physical education class" means a structured secondary school class period that includes an adult supervisor.

[E]G. "Sporting event" means activities listed under Section 26-53-102(5) and includes games, classes, tryouts and activities that take place during the regular school day of public schools and activities sponsored by the public schools with exclusions provided in Section 26-53-102(5)(b).

[F]H. "Traumatic head injury" means any of the signs, observed or self-reported, listed under Section 26-53-102(6).

[G]I. "USOE" means the Utah State Office of Education.

R277-614-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution X, Section 3 which vests general control and supervision in the Board, by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to direct LEAs under the general control and supervision of the Utah State Board of Education to adopt and enforce a head injury policy for students participating in sporting events as defined in the law, including notification to parents of the policy and receipt from parents of signed statements that parents understand and will support the LEA in the enforcement of the policy.

R277-614-3. Board and USOE Responsibilities.

A. The Board directs all LEAs to develop, pass, post on the LEAs' websites and make available to parents a traumatic head injury policy that meets the requirements of Section 26-53.

B. The USOE shall, in consultation with Utah State Risk Management, provide a model policy for LEAs to use in developing their policies. The model policy shall be available on the USOE website.

C. The USOE shall provide model forms for LEAs to use to inform parents of LEA policies and obtain parent signatures documenting the parents' understanding of and willingness to adhere to LEA policies.

D. The USOE shall provide professional development, as needed and to the extent of funds available, to assist LEAs with training to identify students' traumatic head injuries, to provide notice to parents and to comply with the law.

R277-614-4. LEA Responsibilities.

A. All LEAs are identified as amateur sports organizations for purposes of Section 26-53 and shall meet all requirements of the law.

B. [~~Before September 15, 2011, a~~]All LEAs shall [~~adopt~~]maintain a traumatic head injury policy for students:

[~~(1) participating in recess, field days or elementary school activities;~~

] ([2]1) participating in physical education classes, excluding free play under Section 26-53-102(5)(b)(iii), offered by the LEA; and

([3]2) participating in extracurricular activities sponsored by the LEA or statewide athletic associations or both groups jointly.

C. An LEA's policy shall include:

(1) direction to agents to remove a student from a sporting event if the student is suspected of sustaining a concussion or a traumatic head injury;

(2) the prohibition of a student's continued participation until the student is evaluated by a trained qualified health care professional;

(3) a written statement from a trained health care provider clearing the student to resume participation in a sporting event;

(4) adequate training for agents, consistent with their involvement and responsibility for supervising students in sporting events, about traumatic head injuries and response to suspected student injuries, consistent with the law; and

(5) notice at least annually to parents of students who participate in sporting events, including parents' signatures, of an LEA's traumatic head injury policy.

D. An LEA shall post its policy on a district/school or charter school website where the information will be readily accessible to the public and to parents.

KEY: athletes, head injuries

Date of Enactment of Last Substantive Amendment:
[November 8, 2011]2013

Notice of Continuation: May 15, 2013

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

Environmental Quality, Air Quality **R307-101-3** Version of Code of Federal Regulations Incorporated by Reference

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37582

FILED: 05/02/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R307-101-3 incorporates by reference the version of the Code of Federal Regulations (CFR) used in the majority of rules adopted by the Air Quality Board. This allows rules that reference Section R307-101-3 to update the incorporation date with only one rule amendment. The most current version of the CFR for environmental regulations has been updated from 07/01/2011 to 07/01/2012; therefore, it is necessary to amend Section R307-101-3.

SUMMARY OF THE RULE OR CHANGE: The following is a list of changes to 40 CFR from 07/01/2011 to 07/01/2012 that affect rules which reference Section R307-101-3: Vol. 77, No. 121, Pg. 37610-37614 -- This action revised the EPA's definition of volatile organic compounds (VOCs) under the Clean Air Act (CAA). This revision added trans-1,3,3,3-tetrafluoropropene (also known as HFO-1234ze) to the list of compounds excluded from the definition of VOC on the basis that this compound makes a negligible contribution to tropospheric ozone formation. As a result, if you are subject

to certain federal regulations limiting emissions of VOCs, your emissions of HFO-1234ze may not be regulated for some purposes. Vol. 77, No. 124, Pg. 38199 -- In Title 40 CFR parts 87 to 95, revised as of 07/01/2011, on page 579, in Sec. 93.118, paragraph (e)(2) was corrected to read as follows: Sec. 93.118 Criteria and procedures: Motor vehicle emissions budget. (e)(2) If EPA has not declared an implementation plan submission's motor vehicle emissions budget(s) adequate for transportation conformity purposes, the budget(s) shall not be used to satisfy the requirements of this section. Consistency with the previously established motor vehicle emissions budget(s) must be demonstrated. If there are no previously approved implementation plans or implementation plan submissions with adequate motor vehicle emissions budgets, the interim emissions tests required by Sec. 93.119 must be satisfied. Vol. 77, No. 50, Pg. 14979-14988 -- EPA amended the transportation conformity rule to finalize provisions that were proposed on 08/13/2010. These amendments restructured several sections of the transportation conformity rule so that they applied to any new or revised National Ambient Air Quality Standards. EPA also finalized several clarifications to improve implementation of the rule. This final rule removed the definitions for "1-hour ozone NAAQS", "8-hour ozone NAAQS", "24-hour PM10 NAAQS", "1997 PM2.5 NAAQS", "2006 PM2.5 NAAQS", and "Annual PM10 NAAQS" from 40 CFR 93.101. These definitions are no longer necessary because the updated regulatory text for sections 93.109 and 93.119 \8\ applies to any and all NAAQS of those pollutants for which conformity applies. Vol. 76, No. 156, Pg 50129-50133, Friday, 08/12/2011 -- EPA took direct final action on corrections to the Protocol Gas Verification Program and Minimum Competency Requirements for Air Emission Testing final rule, which was published in the Federal Register of 03/28/2011 (76 FR 17288). Vol. 76, No. 152, Pg 48207-48483 -- In this action, EPA limited the interstate transport of emissions of nitrogen oxides (NOX) and sulfur dioxide (SO2) that contribute to harmful levels of fine particle matter (PM2.5) and ozone in downwind states. EPA identified emissions within 27 states in the eastern United States that significantly affect the ability of downwind states to attain and maintain compliance with the 1997 and 2006 fine particulate matter national ambient air quality standards (NAAQS) and the 1997 ozone NAAQS. The authority citation for part 72 was revised to read as follows: Authority: 42 U.S.C. 7401, 7403, 7410, 7411, 7426, 7601, et seq. Section 72.2 was amended by removing the definition for "interested person". Vol. 77, No. 11, Pg 2456-2466/Wednesday, 01/18/2012 -- EPA promulgated this final rule to incorporate the most recent versions of ASTM International standards into EPA regulations that provide flexibility to use alternatives to mercury-containing industrial thermometers. This final rule allows the use of such alternatives in certain field and laboratory applications previously impermissible as part of compliance with EPA regulations. Due to mercury's high toxicity, EPA sought to reduce potential mercury exposures to humans and the environment by reducing the overall use of mercury-containing products, including mercury-containing industrial thermometers. Vol. 76, No. 155, Pg 49669-49674,

Thursday, August 11, 2011 -- The EPA amended regulations to reflect a change in address for EPA's Region 1 office. This action was editorial in nature and was intended to provide accuracy and clarity to the agency's regulations. PART 763-- [AMENDED] Appendix C was amended by revising the address for Region I under II.C.3. to read as follows: Appendix C to Subpart E of Part 763--Asbestos Model Accreditation Plan II.C.3. EPA, Region I, (OES05-1) Asbestos Coordinator, 5 Post Office Square--Suite 100, Boston, MA 02109-3912, (617) 918-1016. 46. Appendix D was amended by revising the address for Region I to read as follows: Appendix D to Subpart E of Part 763--Transport and Disposal of Asbestos Waste Region I Asbestos NESHAPs Contact, Office of Environmental Stewardship, USEPA, Region I, 5 Post Office Square--Suite 100, Boston, MA 02109-3912, (617) 918-1551.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates 40 CFR, published by National Archives and Records Administration's Office of the Federal Register, July 1, 2012

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** Because the revisions do not create new requirements, no change in costs or savings is expected for the state budget.
- ◆ **LOCAL GOVERNMENTS:** Because this revision does not create new requirements, no change in costs or savings is expected for local governments.
- ◆ **SMALL BUSINESSES:** Because this revision does not create new requirements, no change in costs or savings is expected for small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because this revision does not create new requirements, no change in costs or savings is expected for persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this revision does not create new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment does not create new requirements; therefore, there is no anticipated fiscal impact on businesses.

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

ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/08/2013

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.**R307-101. General Requirements.****R307-101-3. Version of Code of Federal Regulations Incorporated by Reference.**

Except as specifically identified in an individual rule, the version of the Code of Federal Regulations (CFR) incorporated throughout R307 is dated July 1, [2011]2012.

KEY: air pollution, definitions

Date of Enactment or Last Substantive Amendment: [February 3, 2013]

Notice of Continuation: July 2, 2009

Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)

Environmental Quality, Air Quality
R307-210-2
 Oil and Gas Sector: New Source
 Performance Standards

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 37583
 FILED: 05/02/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: On 08/12/2012, the EPA promulgated new source performance standards (NSPS) for the oil and gas sector. In order for these new standards to be enforceable at the state level, they need to be incorporated into the Division of Air Quality (DAQ) rules.

SUMMARY OF THE RULE OR CHANGE: The "Oil and Gas Sector: New Source Performance Standards" in 40 CFR 60.17, 40 CFR Part 60 Subpart KKK, 40 CFR Part 60 Subpart LLL, and 40 CFR Part 60 Subpart OOOO, promulgated by the EPA on August 16, 2012 in 77 FR 49490 are incorporated by reference.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-108 and Subsection 19-2-104(3)(q)

MATERIALS INCORPORATED BY REFERENCES:

♦ Updates 77 FR 49490, published by National Archives and Records Administration's Office of the Federal Register, 08/16/2012

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There may be an additional cost to DAQ to enforce the standards for sources that are currently inspected; however, any costs should be minimal and should not result in any additional costs to the state budget. Because new sources are subject to these standards, there may be additional costs to enforce the standards in the future, but the potential increase is currently unknown, especially for smaller sources that are not permitted by DAQ.

♦ **LOCAL GOVERNMENTS:** There are no new requirements for local government; therefore, there are no anticipated costs or savings.

♦ **SMALL BUSINESSES:** These provisions are already in place and federally enforceable. Any small business to which this rule might apply already should be complying with this rule; therefore, there are no anticipated costs or savings.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These provisions are already in place and federally enforceable. Any person other than small businesses, businesses, or local government entities to which this rule might apply already should be complying with this rule; therefore, there are no anticipated costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the provisions of this rule are already federally enforceable, affected persons should already be in compliance with it. There are no additional compliance costs associated with incorporating the new standards into the DAQ rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because the provisions of this rule are already federally enforceable, businesses should already be in compliance with it. DAQ anticipates no fiscal impact associated with incorporating the new standards into the DAQ rules.

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

ENVIRONMENTAL QUALITY
 AIR QUALITY
 FOURTH FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/08/2013

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.
R307-210. Stationary Sources.
R307-210-2. Oil and Gas Sector: New Source Performance Standards.

The "Oil and Gas Sector: New Source Performance Standards" in 40 CFR 60.17, 40 CFR Part 60 Subpart KKK, 40 CFR Part 60 Subpart LLL, and 40 CFR Part 60 Subpart OOOO promulgated by the Environmental Protection Agency on August 16, 2012 in 77 FR 49490 are hereby incorporated by reference.

KEY: air pollution, stationary sources, new source review
Date of Enactment or Last Substantive Amendment: [~~March 7, 2012~~2013
Notice of Continuation: April 6, 2011
Authorizing, and Implemented or Interpreted Law: 19-2-104(3) (q); 19-2-108

Environmental Quality, Air Quality
R307-214-3
Oil and Gas Sector: National Emission Standards for Hazardous Air Pollutants

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 37584
 FILED: 05/02/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: On 08/12/2012, the EPA promulgated national emission standards for hazardous air pollutants (NESHAP) for the oil and gas sector. In order for these new standards to be enforceable at the state level, they need to be incorporated into the Division of Air Quality (DAQ) rules.

SUMMARY OF THE RULE OR CHANGE: The "Oil and Gas Sector: National Emission Standards for Hazardous Air Pollutants" in 40 CFR 63.14, 40 CFR Part 63 Subpart HH, and 40 CFR Part 63 Subpart HHH promulgated by the EPA on 08/16/2012 in 77 FR 49490 are incorporated by reference in to the the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

MATERIALS INCORPORATED BY REFERENCES:
 ♦ Adds 77 FR 49490, published by National Archives and Records Administration's Office of the Federal Register, 08/16/2012

ANTICIPATED COST OR SAVINGS TO:
 ♦ THE STATE BUDGET: There may be an additional cost to DAQ to enforce the standards; however, any costs should be minimal and should not result in any additional costs to the state budget.
 ♦ LOCAL GOVERNMENTS: There are no new requirements for local government; therefore, there are no anticipated costs or savings.
 ♦ SMALL BUSINESSES: These provisions are already in place and federally enforceable. Any small business to which this rule might apply already should be complying with this rule; therefore, there are no anticipated costs or savings.
 ♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These provisions are already in place and federally enforceable. Any person other than small businesses, businesses, or local government entities to which this rule might apply already should be complying with this rule; therefore, there are no anticipated costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the provisions of this rule are already federally enforceable, affected persons should already be in compliance with it. There are no additional compliance costs associated with incorporating the new standards into the DAQ rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because the provisions of this rule are already federally enforceable, businesses should already be in compliance with it. DAQ anticipates no fiscal impact associated with incorporating the new standards into the DAQ rules.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/08/2013

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-214. National Emission Standards for Hazardous Air Pollutants.

R307-214-3. Oil and Gas Sector: National Emission Standards for Hazardous Air Pollutants.

Revisions to the "Oil and Gas Sector: National Emission Standards for Hazardous Air Pollutants" in 40 CFR 63.14, 40 CFR Part 63 Subpart HH, and 40 CFR Part 63 Subpart HHH promulgated by the Environmental Protection Agency on August 16, 2012 in 77 FR 49490 are hereby incorporated by reference.

KEY: air pollution, hazardous air pollutant, MACT

Date of Enactment or Last Substantive Amendment: [June 7, 2012]2013

Notice of Continuation: November 8, 2012

Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)

**Health, Disease Control and
Prevention, Environmental Services
R392-103
Food Handler Training and Certificate**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 37589

FILED: 05/02/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule has been written in response to S.B. 187 "Food Handler Licensing Amendments" passed in the 2013 General Legislative Session. This bill outlines food handler training and certificate requirements, sets uniform standards that must be met, and provides for uniform acceptance of food handler permits statewide. This rule will serve to clarify the minimum food handler training and certification requirements required by statute and outlines the uniform process food handlers are to follow to receive training and to be eligible to receive a food handler permit from the local health departments. Extensive consultation has taken place with regulated entities and local health departments.

SUMMARY OF THE RULE OR CHANGE: The rule establishes the: 1) purpose; 2) requirements to be met to become an approved food handler training provider; 3) requirements for issuing of food handler permits, and acceptance statewide by the local health departments; 4) course training and testing requirements; and 5) auditing and other administrative requirements.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-15-5 and Subsection 26-1-30(2) and Subsection 26A-1-114(1)(h)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There will be an increase in workload at the Department to administer this program, but the costs will be covered by existing funding.

◆ **LOCAL GOVERNMENTS:** There may be a reduction in fees received for training at some local health departments as private food handler training programs replace training which has been provided by local health departments. Fees received for issuing of food handler permits should remain neutral, if not lower, as the renewal frequency has been uniformly set at three years, where the frequency previously varied.

◆ **SMALL BUSINESSES:** There is a potential for small businesses to increase their revenue from training as they compete in the new market authorized by this rule. Although the statute and rule do not require that a provider use their own test, there will be a cost of no more than \$500 paid to the Department every three years for costs associated with the approval of their own test if the provider chooses this option. Additionally per statute they also must cover the recommendation costs of an "Independent Instructional Design and Testing Expert". There is no cost required to use the Department provided test, but applicants must sign a confidentiality agreement.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is potential for large businesses to increase their revenue from training as they compete in the new market authorized by this rule. Although the statute and rule do not require that a provider use their own test, there will be a cost of no more than \$500 paid to the Department every three years for costs associated with the approval of their own test if the provider chooses this option. Additionally per statute they also must cover the recommendation costs of an "Independent Instructional Design and Testing Expert". There is no cost required to use the Department provided test, but applicants must sign a confidentiality agreement.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The implementation of this rule will mean a shift in financial streams for all parties currently involved in food handler training and certification as it is anticipated that the private industry market portion will increase for the training required. The costs for training will be market driven and not restrained or mandated by this rule. Costs to individuals for issuance of food handler permits should be relatively unchanged.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This may have the effect of shifting some portion of the training from current providers to large corporate in-house training.

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

HEALTH
DISEASE CONTROL AND PREVENTION,
ENVIRONMENTAL SERVICES
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Ronald Marsden by phone at 801-538-6191, by FAX at 801-538-6564, or by Internet E-mail at rmarsden@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

R392. Health, Disease Control and Prevention, Environmental Services.

R392-103. Food Handler Training and Certificate.

R392-103-1. Purpose.

(1) This rule requires that food handler training, testing, issuing of a food handler certificate, and fees follow uniform statewide standards.

(2) The Centers for Disease Control and Prevention has identified five risk factors associated with food-borne illness outbreaks. Four of the five risk factors result from improper handling of food by food handlers or poor personal hygiene of food handlers.

(3) Proper training allows food handlers the ability to apply the knowledge gained to prevent food-borne diseases. Testing of food handlers confirms that knowledge of correct food handling techniques was gained. A food handler permit that is recognized statewide provides a tool for the Department to verify that food handlers have received state approved training and testing.

(4) State and local monitoring of this process is critical to protect the public. Coordination between this process and inspection of regulated facilities is necessary to quickly and effectively respond to identified risks. Recognizing the essential work of state and local public health officials, with accountability to state and local elected officials, maintains control and responsiveness to public health concerns.

R392-103-2. Definitions.

(1) "Department" means the Utah Department of Health.

(2) "Executive Director" means the Executive Director of the Utah Department of Health or designated representative.

(3) "Food Handler" means a person who works with unpackaged food, food equipment or utensil, or food-contact surfaces for a food service establishment as defined in R392-100.

(4) "Food Handler Permit" means a permit issued by a local health department to allow a person to work as a food handler.

(5) "Food Handler Certificate" means the documentation of a certificate of completion of food handler training indicating passing of a Department approved exam before a food handler permit is issued.

(6) "Independent Instructional Design and Testing Expert" means a person who has received training and has a graduate degree from an accredited University with a certification in psychometrics and expertise in Instructional Design.

(7) "Local Health Officer" means the director of the jurisdictional local health department as defined in 26A, Chapter 1, or his designated representative.

(8) "Approved Food Handler Training Provider" means an entity that provides a food handler training program approved by the Utah Department of Health.

R392-103-3. Food Handler Permit Issuing Procedure, Reciprocity, and Renewal.

(1) A food handler must have a valid food handler permit issued by a local health officer in the local health district where the food handler resides at the time the certificate is issued. The local health officer shall issue a food handler permit by mail or in person to a food handler that has a valid certificate indicating they have taken a course and passed an exam from an approved food handler training provider unless R392-103-4(1)(a) or (b) applies.

(2) After a food handler applicant passes a Department approved exam, an approved food handler training provider shall issue a food handler a certificate of completion and transmit electronically or by mail notification of the certificate to the local health department where the applicant resides. To inhibit fraud, each certificate issued shall be uniquely numbered by the food handler training provider using their own numbering system. The certificate shall contain the name of the person to whom the certificate is issued, the date of issuing, and also list the food handler training provider who issued the certificate. The certificate shall be valid for 30 days toward getting a food handler permit and shall be valid statewide as proof of training and testing allowing the person to work as a food handler for 30 days from the initial date of employment. The food handler applicant must have a food handler permit within 30 days of the date of initial employment.

(3) The approved food handler training provider shall send notification to the local health department where an applicant resides that a certificate has been issued. This notification must take place within 5 business days after the applicant passes the exam. The local health department may use this information at any time to verify that an applicant has received a certificate from an approved food handler training provider.

(4) Local health departments shall accept food handler permits issued under authority of this rule until the date of expiration, revocation, or suspension of the food handler permit.

(5) A person may obtain a food handler permit by providing to the local health department a valid certificate of completion of an approved food handler training program, completing a local health department approved application either through the food handler training provider or at a local health department, and paying a food handler permit fee. The fee for the permit shall be no more than \$15 and shall be uniform statewide.

(6) Food handler permits issued shall contain the following information:

- _____ (a) "Utah Food Handler Permit" as the title;
- _____ (b) Name of the food handler;
- _____ (c) Expiration Date;
- _____ (d) Identification number which begins with a two letter unique identifier of the training provider and up to 6 characters following the two letter identifier;
- _____ (e) Name of health department who issued the permit;
- _____ (f) "This Permit is Not a Legal Form of Identification" stated at the bottom of the permit;
- _____ (g) Utah State seal; and
- _____ (h) On the back of the permit, the following information must be presented:
 - _____ (i) Permit must be presented upon request by the health authority;
 - _____ (ii) Permit may be revoked for cause; and
 - _____ (iii) No other food handler permit is approved in the State of Utah.

_____ (7) Except when Subsections R392-103-3(11) through (13) apply, a food handler must possess a valid food handler permit issued by a local health officer before being allowed to handle food served to the public.

_____ (8) With the exception of temporary events, food service establishments shall have a copy of the food handler permit of each employee that works in the establishment available upon request of the local health department inspector. If the food handler is working at a temporary event, at least one person must have a food handler permit to show to the health authority, if asked, but does not have to have a copy of the permit in an establishment file.

_____ (9) Food handler permits shall be valid for 3 years from the date of issuance. Food handler permits must be renewed every 3 years by completing an approved food handler training course, passing an exam administered by an approved food handler training provider, and receiving a food handler permit from the local health department.

_____ (10) Food Service employees must successfully complete a training course within 14 days after the day on which the person begins employment, unless they already have a current certificate or food handler permit, and shall not handle food until they have received a certificate of completion qualifying them for a food handler permit.

_____ (11) The local health officer shall accept a food handler permit issued to a back country outfitter by the United States Department of the Interior, or by a public health authority in Arizona, Colorado, Idaho, Nevada, or Wyoming. This applies only to food handling done at a back country food establishment that meets the exemption requirements of Section 26-15a-105(1)(i).

_____ (12) A person working as a food handler for a food service establishment shall obtain a food handler permit no later than seven days after the expiration of an existing food handler permit.

_____ (13) An individual certified as a food safety manager under R392-101 shall be exempt from the requirement of obtaining a food handler permit under this section.

R392-103-4. Suspension or Revocation of Food Handler Permits.

_____ (1) The local health officer may revoke or suspend a food handler permit if:

_____ (a) A food handler is ill with a disease that may be transmitted through the handling of food or,

_____ (b) If two or more inspections within two years document that the same food handler has at least twice failed to apply the same learning objective listed in R392-103-5 or,

_____ (c) A food handler shows willful disregard to food safety that has the potential to endanger the public.

_____ (2) The local health department may confiscate any food handler permit which cannot be authenticated by a local health department, or that has been revoked or suspended.

_____ (3) A food handler may re-apply to a local health department for reinstatement of a food handler permit by requesting a hearing with the local health department and demonstrating to the local health department to their satisfaction why the permit should be reinstated.

R392-103-5. Food Handler Training Requirements.

_____ (1) A food handler training provider must receive approval from the Department before offering training to food handlers in the state. A food handler training provider must provide basic instruction focused on Utah Rule R392-100 (which incorporates the FDA national model food code standard), shall include at least 75 minutes of training time offered either in an internet based course or trainer led course or a combination of both, and shall contain basic training information regarding the Centers for Disease Control top five risk factors associated with food-borne illness outbreaks including the bulleted learning objectives as listed below (a) through (d):

_____ (a) Proper hot or cold holding temperatures of food which requires time or temperature control for safety;

_____ List the temperature danger zone.

_____ Describe the correct procedure for holding cold foods and hot foods, receiving foods, and proper date and time marking.

_____ List the appropriate temperatures for refrigerators, freezers and steam tables.

_____ Identify the hazards of leaving potentially hazardous foods (foods that require time or temperature controls for safety, TCS) at room temperature.

_____ Define potentially hazardous foods (foods that require time or temperature controls for safety, TCS).

_____ List the population groups that are the most vulnerable to food-borne illness.

_____ Discuss how bacterial growth occurs in food.

_____ Identify the most common causes of food-borne illness.

_____ List sources of microbes.

_____ (b) Proper cooking, reheating, and cooling temperatures of food;

_____ List the required final cook temperatures for foods.

_____ List the final temperature for reheating leftovers.

_____ Describe the relationship between cooking time and temperature in killing microorganisms.

_____ Describe the steps used to cool food rapidly.

_____ Describe the proper procedure to thaw frozen foods.

_____ (c) Control of dirty or contaminated utensils and equipment including prevention of cross contamination and proper ware washing and sanitizing;

_____ Discuss how a food handler might contaminate food.

_____ Define cross-contamination.

List the possible sources of cross-contamination when handling food.

Identify the steps to prevent cross-contamination.

Stress the importance of eliminating bare-hand contact with ready-to-eat food through utensils or gloving.

Define cleaning and sanitizing and correct procedures for each.

Identify the chemicals that can be used to clean and sanitize food-contact surfaces.

Describe the correct concentration of cleaning and sanitizing solutions used on food-contact surfaces and how to test the concentrations.

Identify when surfaces should be cleaned and sanitized.

Describe the correct procedures to use and store chemicals.

Describe the 3-sink method of cleaning and sanitizing pots and pans and how to correctly dry dishes.

Describe the correct procedure for cleaning and sanitizing using a dish machine.

Proper cleaning and sanitizing steps.

Describe the correct procedures for storing dishes and utensils.

Describe the correct procedures to handle trash and garbage.

(d) Employee health and hygiene requirements including food-borne illness prevention training, and using food from only approved sources:

List the personal hygiene practices that the food handler can take to prevent food contamination.

Describe the steps necessary for proper hand washing and when a double hand wash is required.

Describe how hands become contaminated and when and where hand washing should occur.

List appropriate clothing and hair restraints.

List the five major food borne illness diseases and symptoms that must be reported to the manager.

Describe the correct procedures to prevent food-borne illness from a cut, burn or other wound.

Describe under what conditions an employee may eat, drink or use any form of tobacco and the precautions to take after these activities.

Define a food-borne illness.

State how often a food handler permit has to be renewed.

Define approved source of food and what sources are and are not approved.

(2) An approved food handler training provider shall add training objectives and topics which the Department identifies by rule as being a cause of a food-borne illness outbreak or serious threat to the health of food service facility patrons.

(3) Each time a food handler permit is renewed, the food handler must take a training course from an approved food handler training provider before they may take a food handler exam.

(4) A person may not serve as an instructor of an approved food handler training program unless the person is registered with a local health department as an instructor.

(5) An approved food handler training provider must maintain a list of past and current trainers registered with a local health department denoting the dates the trainer taught food handler

courses. The trainer list must be available for audit by the Department. On-line trainers must maintain a list of which course version is taught on-line by date.

(6) An approved food handler training provider must maintain a system to verify a certificate of completion upon request of the Department, or local health department, or food service establishment where the food handler is employed.

(7) An approved food handler training provider may charge a reasonable fee. An approved food handler training provider may collect both the training fee and food handler permit fee at the same time from the applicant when the applicant initially pays for the training course.

(8) A food handler training provider may not advertise to the public or represent to the public that they offer approved food handler training programs which will allow individuals to obtain a food handler permit in the state if they are not approved by the Department.

R392-103-6. Examination Requirements.

(1) An approved food handler training provider shall use the bank of food handler exam questions issued by the Department and obtained through application to the Department, or a Department approved set of questions as approved in R392-103-6(2). Exams must contain 40 multiple choice questions with 10 randomly selected questions from each category listed in R392-103-5 (a) through (d). An approved food handler training provider must routinely rotate exam questions from the exam question bank, the order of exam questions, and the answer order of the multiple choice questions.

(2) If a food handler training provider elects not to use the Department issued questions, the food handler training provider may request approval of a different bank of exam questions. For approval, the food handler training provider shall pay to the Department a fee to review the exam questions. The fee shall reflect actual costs, but shall not exceed \$500. The food handler training provider shall also submit to the Department the proposed bank of at least 200 exam questions organized by the required learning objectives listed in this rule with at least 25 questions from each objective. In addition, the food handler training provider shall contract, at their own expense, with a Department approved independent instructional design and testing expert to evaluate the proposed bank of exam questions. The independent instructional design and testing expert shall analyze a food handler training provider's bank of exam questions to determine if the exam questions effectively measure the applicant's knowledge of the learning objectives outlined in this rule and meet the appropriate testing standards for question structure. To be approved, the independent instructional design and testing expert must provide the Department with a positive recommendation based on their analysis. The Department must approve any change in the provider offered bank of exam questions before implementation. Exam approval is good for three years, after which a provider must re-apply for exam approval.

(3) The Department may require changes to the exam questions if the Department finds that the questions inadequately test the learning objectives. An approved food handler training provider shall update the exam questions used within thirty (30) days of written notice of the change.

(4) A person taking a food handler exam must answer at least 75% of the questions correctly to pass the examination to be eligible to receive a food handler permit.

(5) A food handler examination offered by an approved food handler training provider may be written, oral, or on-line. Oral exams may be conducted individually when circumstances require it such as when an applicant's language or reading abilities interfere with taking a written or an on-line exam.

(6) An approved food handler training provider shall implement procedures to ensure that cheating on examinations does not take place. An approved food handler training provider shall ensure that exams are protected from being compromised, protected from unauthorized access, and available to candidates only during exam time.

(7) An approved food handler training provider shall routinely randomize the exam question order.

(8) An approved food handler training provider shall inform persons taking a food handler course, at the beginning of the course, that downloading exams onto a flash drive or other portable electronic devices or distribution of any exam by the individual in any way to other persons is strictly prohibited. An approved food handler training provider shall also notify persons taking a food handler exam that note taking, use of a cell phone or other recording device, talking to or receiving aid to answer questions from another person during the exam process is strictly prohibited. Violation of the exam security requirements shall invalidate the certificates of completion of all those involved, and a training provider shall report violations to the local health department. A provider shall not issue a certificate of completion to those involved in violation of on-line exam security unless the next successfully completed exam is proctored.

(9) An approved food handler training provider must maintain records of each candidate's name, address of residence including street, city, county and zip code, date of birth, gender, date of examination, pass or fail certificate status, and name of instructor for at least three years and provide this to the local health department within the jurisdiction that the applicant resides. The provider shall send this information to the local health department within whose jurisdiction the applicant resides within 5 business days as required in R392-103-3(1).

(10) An approved food handler training provider shall offer a course evaluation to persons taking approved courses and exams.

(11) An approved food handler training provider must implement procedures to prevent the duplication of certificates of completion.

(12) An approved food handler training provider who offers exams in person either written or on a computer at the facility must proctor the exam. An approved food handler training provider shall require a person taking a course and exam to provide a signature attesting that the person has complied with exam requirements.

(13) An approved food handler training provider who offers exams on line must implement procedures to reasonably inhibit fraudulent attempts to circumvent the food handler training and exam requirements in this rule such as a person taking an exam in place of another person, and procedures to reasonably ensure an individual taking an approved course and exam is focused on

training materials and actively engaged throughout the training period.

(14) An approved internet based food handler training provider's exam offered over the internet shall meet the following exam protocols:

(a) An approved internet based food handler training provider shall submit documentation to the Department on initial approval, audit, or by request regarding the security measures taken to inhibit fraud. Exam protocols will be evaluated by the Department or local health department during the approval process and may be audited by the Department at any time to determine if the protocols are preventing fraudulent activities.

(b) An approved internet based food handler training provider shall require a food handler applicant to provide all applicant information required by this rule and shall electronically link the information to the exam before the exam may be offered. An approved internet based food handler training provider administrator shall document any repeat taking of the exam and shall require a food handler applicant to retake a food handler training course after no more than three failed attempts to pass the exam.

(c) The start and end time of the exam shall be logged.

(d) An approved internet based food handler training provider shall track the Internet Protocol address or similar electronic location of an individual who takes an on-line course and exam.

(e) An approved internet based food handler training provider shall present pre-exams at the end of each learning section and at a minimum of four pre-exams per course. The pre-exams must be completed at a 75% correct rate before allowing a person to the next section. All pre-exams must contain a minimum of four questions and be completed before allowing the exam to be provided to a person.

(f) An approved internet based food handler training provider shall provide technical support to users by way of the internet, phone, or other method in case technical difficulties occur.

(g) An approved internet based food handler training provider shall require persons taking a course and exam to provide an electronic signature attesting that the person has complied with exam requirements.

(15) An approved internet based food handler training provider must monitor exam protocols and periodically (at a minimum of monthly), perform a self-review to assess that the system is working and to ensure that each exam meets exam protocols before issuing a certificate of completion. Any instance of suspected violation of exam protocols must be reported to the local health department where the applicant resides.

R392-103-7. Food Handler Training Provider Approval, and Auditing.

(1) An approved food handler training provider must offer both training and testing to be approved by the Department in consultation with the local health department before they may offer food handler training and testing in the state.

(2) An approved food handler training provider that has been approved by the Department or a local health department before the effective date of this rule may continue to provide food handler training and testing for 90 days from the effective date of

this rule. After 90 days, all food handler training providers must be re-approved by the Department according to the requirements of this rule to continue operating in the state.

(3) As part of the approval process, the Department or local health department designee shall provide prospective food handler training providers a copy of this rule. Food handler training providers must sign an affidavit provided by the Department that states the provider will comply with the requirements of this rule and shall abide by confidentiality agreements if the provider chooses to use the Department provided exam. A food handler provider must present to the Department a summary of how the training program meets the training objectives contained in R392-103-5.

(4) A food handler training provider shall be open to audit during the initial approval process and also during any subsequent audits to Department authentication of the following information:

(a) Any documents used in the food handler training, and

(b) Identity of instructors and providers.

(5) A food handler training provider must submit an application for re-approval to the Department every three years. The food handler training provider shall follow the requirements of R392-103-7 to apply for re-approval.

(6) A food handler training provider is subject to Department audit to determine compliance with this rule. A food handler training provider shall allow the Department unrestricted access to provider course training and testing materials, provide unrestricted on-line access to training sites, and unrestricted access to classroom training sessions. The Department may conduct audits either at random or on a complaint basis to determine compliance with the requirements of this rule.

(7) If the Department finds that an approved food handler training provider is non-compliant during an audit, the Department shall revoke the registration and the food handler training provider shall cease offering training classes and food handler certificates until the Department mandated corrective action is taken to correct the violation. Until the violation is corrected, certificates issued by this food handler training provider shall not be accepted for the issuing of food handler permits by the local health officer from the date the food handler training provider was found to be non-compliant.

(8) An approved food handler training provider shall comply with the Americans with Disability Act (ADA) access requirements irrespective of the size of the training operation.

KEY: food handler training, food handler certificates, food handler permits, food handler testing

Date of Enactment or Last Substantive Amendment: 2013

Authorizing, and Implemented or Interpreted Law: 26-1-30(2); 26-15-5; 26A-1-114(1)(h)

Labor Commission, Administration
R600-2
Operations

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37621

FILED: 05/14/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this proposed rule change is to establish modified hours of operations for the Commission's Parowan, Utah office.

SUMMARY OF THE RULE OR CHANGE: This rule change establishes modified hours of operation as 8:00 am to 5:00 pm, Monday through Thursday for the Commission's Parowan office.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-1-104

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The Commission anticipates there may be a minimal effect on the state's budget in the form of reduced utility costs for the Parowan office.

♦ **LOCAL GOVERNMENTS:** The Commission does not anticipate any cost or savings to local government as a result of this change. The business of the Parowan office does not usually impact local government.

♦ **SMALL BUSINESSES:** The Commission does not anticipate any cost or savings to small businesses as a result of this change. Small businesses may continue to interact with the Parowan office as participants in cases.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Commission does not anticipate any cost or savings to persons other than small businesses, businesses, or local government entities as a result of this change. These individuals, organizations, or entities may continue to interact with the Parowan office as participants in cases.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Commission does not anticipate any cost or savings to affected persons because the Parowan office will offer the same level of services and will be fully staffed Monday thru Thursday.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be no fiscal impact on businesses with this rule change as it simply establishes modified hours of operations for the Parowan, Utah, office of the Labor Commission.

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

LABOR COMMISSION
ADMINISTRATION
HEBER M WELLS BLDG

160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Jaceson Maughan by phone at 801-530-6036, by FAX at 801-530-6390, or by Internet E-mail at jacesonmaughan@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R600. Labor Commission, Administration.

R600-2. Operations.

R600-2-1. Business Hours.

The offices of the Commission shall be open for receipt of official documents between the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday. The Labor Commission's Parowan office shall be open for receipt of official documents between the hours of 8:00 a.m. to 5:00 p.m. Monday through Thursday. Commission offices shall not be open for business Saturday or Sunday and on state-recognized holidays. Any official document, including fax transmissions, received when the Commission is not open, including fax transmissions after 5:00 p.m. shall be considered received on the next working day.

KEY: L|Labor C|e|ommission, hours of business

Date of Enactment or Last Substantive Amendment: [~~October 11, 2011~~]2013

Notice of Continuation: June 19, 2012

Authorizing, and Implemented or Interpreted Law: 34A-1-104

Labor Commission, Industrial Accidents
R612-200-1
Acceptance / Denial of a Claim

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37622

FILED: 05/14/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to outline the workplace injury reporting process within the electronic reporting environment.

SUMMARY OF THE RULE OR CHANGE: This rule change requires employers to report workplace injuries to insurance carriers who then report to the Labor Commission

electronically. Previously both employers and carriers reported paper forms to the Labor Commission.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-2-407 and Section 34A-3-108

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds Utah Claims R3 EDI Tables, published by Labor Commission, 04/19/2013
- ◆ Adds Claims EDI Implementation Guide, published by Labor Commission, 04/19/2013

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The Commission anticipates some cost to set up and monitor, however in the long term this is offset by personnel savings (time spent manually entering paper forms).
- ◆ **LOCAL GOVERNMENTS:** The Commission does not anticipate any cost or savings to local governments because they are already reporting claims to the Commission.
- ◆ **SMALL BUSINESSES:** The Commission does not anticipate any cost to small businesses because they are already reporting claims to the Commission. There may be some savings because they will not be reporting claims to two entities.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Commission anticipates insurance carriers may incur some costs to meet the electronic reporting requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS:

Insurance carriers only operating in Utah would have initial development costs. Insurance carriers operating in other electronic reporting jurisdictions may incur costs to add Utah to their electronic distribution. Insurance carriers do incur costs associated with transmitting their reports through authorized EDI vendors and will be assessed noncompliance fines if they fail to follow reporting protocols.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no costs to small businesses, there may be a small savings to those who are currently filing reports to both the carrier and Commission.

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:

◆ Ron Dressler by phone at 801-530-6841, by FAX at 801-530-6804, or by Internet E-mail at rdressler@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R612. Labor Commission, Industrial Accidents.

R612-200. Workers' Compensation Rules - Filing and Paying Claims.

R612-200-1. ~~[Acceptance/Denial of a Claim]~~Reporting and Investigating Injuries.

~~A. [Upon receiving a claim for workers' compensation benefits, the insurance carrier or self-insured employer shall promptly investigate the claim and begin payment of compensation within 21 days from the date of notification of a valid claim or the insurance carrier or self-insured employer shall send the claimant and the division written notice on a division form or letter containing similar information, within 21 days of notification, that further investigation is needed stating the reason(s) for further investigation. Each insurance carrier or self-insured employer shall complete its investigation within 45 days of receipt of the claim and shall commence the payment of benefits or notify the claimant and division in writing that the claim is denied and the reason(s) why the claim is being denied.]Employer's Obligation to Report Injury.~~

~~1. Time requirements. Within 7 days after first notice of a work-related injury, except an injury requiring only first aid treatment as defined in subsection B. of this rule, an employer must report the injury as follows:~~

~~a. Insured employer. An insured employer must report the injury to its workers' compensation insurance carrier.~~

~~b. Self-insured employer. A self-insured employer must report the injury to its claims administrator.~~

~~c. Uninsured employer. An uninsured employer must report the injury directly to the Division.~~

~~d. An employer is deemed to have notice of a workplace injury upon the earliest of the following:~~

~~i. Observation of the injury;~~

~~ii. Verbal or written notice of the injury from any source; or~~

~~iii. Receipt of any other information sufficient to warrant further inquiry by the employer.~~

~~2. Penalty for failure to properly report injury. The Division may impose a civil assessment of up to \$500 against an employer for each occurrence in which the employer fails to report a work-related injury as required by this rule.~~

~~B. First Aid.~~

~~1. Injury Required Treatment Only by First Aid Need Not Be Reported. An employer is not required to report a work injury that requires only first aid treatment.~~

~~a. First aid treatment is limited to medical care provided on-site or at an employer-sponsored free clinic. It may include an initial visit and one subsequent follow-up visit within 7 days of the injury or, if provided by a licensed health professional in an employer-sponsored free clinic, then an initial visit and two subsequent visits within 14 days of the injury.~~

~~b. The Employer must maintain health records on site for first aid treatment. (This does not apply to reporting it on OSHA's 300 log).~~

~~2. Treatments That Constitute First Aid. First aid treatment is limited to the following types of medical care:~~

~~a. Non-prescription medications at non-prescription strength.~~

~~b. Tetanus immunizations;~~

~~c. Cleaning, flushing or soaking wounds on the skin surface;~~

~~d. Applying bandages, gauze pads, etc.;~~

~~e. Hot or cold therapy, limited to hot or cold packs, contrast baths and paraffin.~~

~~f. Use of any totally non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc.;~~

~~g. Use of temporary immobilization devised while transporting an accident victim (splints, slings, neck collars, or back boards);~~

~~h. Drilling a fingernail or toenail to relieve pressure, or draining fluids from blisters;~~

~~i. Eye patches, simple irrigation, or use of a cotton swab to remove foreign bodies not embedded in or adhered to the eye;~~

~~j. Use of irrigation, tweezers, cotton swab or other simple means to remove splinters or foreign material from areas other than the eye;~~

~~1. Use of finger guards;~~

~~m. Massages;~~

~~n. Drinking fluids to relieve heat stress.~~

~~3. Treatments That Are Not Considered First Aid. First aid does not include treatment of any injury that has resulted in a loss of consciousness, inability to work, work restriction, or transfer to another job.~~

~~C. Insurer and Self-Insured Employer's Duty to File First Report of Injury.~~

~~1. Purpose of First Report of Injury. The First Report of Injury is used to provide notice of work injuries to the Division as required by Section 34A-2-407 of the Utah Workers' Compensation Act and Section 34A-3-108 of the Utah Occupational Disease Act.~~

~~2. Incorporation by Reference of Technical Standards Governing First Reports of Injury. The Labor Commission hereby adopts and incorporates by reference the Industrial Accidents Division Claims EDI Implementation Guide ("EDI Implementation Guide") and the Utah Claims R3 EDI Tables ("EDI Tables"). (Date/version, etc.)~~

~~3. Compliance with EDI Implementation Guide and EDI Tables.~~

~~a. Each First Report of Injury must comply with the formatting standards and content requirements of the EDI Implementation Guide and EDI Tables and must contain the following minimum information:~~

~~i. Date of Injury;~~

~~ii. Type of loss (injury or occupational disease);~~

~~iii. Basic injury information, including a) nature of Injury (strain, puncture etc); b) part of body affected (hand, foot etc); and cause of injury (burn, fall, exposure etc);~~

~~iv. Description of event or conditions leading to injury or disease;~~

~~v. Injured worker's first and last name;~~

~~vi. Injured worker's date of birth;~~

vii. Injured worker's social security number, Green Card number, Employment Visa number, or Passport number. If none of these identification numbers are available, the entity preparing the First Report of Injury must contact the Division to obtain a substitute identification number.

viii. Injured worker's mailing address;

ix. Injured worker's employment status (part or full time);

x. Date employer had notice of the injury;

xi. Employer's name;

xii. Employer's federal employer identification number or federal tax identification number;

xiii. Employer's unemployment insurance number; and

xiv. Employer's physical business address.

b. The claim administrator shall report the appropriate First Report of Injury (FROI) based on the EDI standard, which includes the ability to communicate immediate denial and under investigation. In the event of denial or under investigation, the claim administrator must provide the claimant written notice of determination and reasons for it.

4. Time requirement for filing First Report of Injury. Within 7 days of receiving notice of a work injury, an insurance carrier or self-insured employer must submit a First Report of Injury for the injury to the Division.

a. An insurance carrier or self-insured employer is deemed to have notice of a workplace injury or disease upon receipt of verbal or written notice of the injury that includes the names of the employer and employee and the date of injury.

b. An employer that is not self-insured and does not have workers' compensation insurance must report any work injury directly to the Division.

c. The Division may impose a civil assessment of up to \$500 against an insurance carrier or self-insured employer for each occurrence or failure to properly report a work injury as required by this rule. The penalty shall be applied only to the improperly filed report as a whole and not applied to each required date element required by section 3.a.

D. Investigation of Claims. An insurance carrier, claim administrator or uninsured employer shall promptly investigate the claim and either accept or deny the claim within 21 days of the date of notice. IF, with exercise of reasonable diligence, the insurance carrier, claim administrator or uninsured employer cannot complete its investigation within the initial 21-day period, it shall within that initial 21-day period submit to the Division a "First Report of Injury - Under Investigation" and provide a similar written notice to the subject employee. The insurance carrier, claim administrator or uninsured employer shall then be allowed 24 days in addition to the initial 21-day period to complete its investigation.

1. The Division may impose a civil assessment of up to \$500 against an insurance carrier or self-insured employer for each occurrence of failure to properly report its compensability determination by the conclusion of the additional 24-day period provided by this subsection. The penalty shall be applied only to the improperly filed report as a whole and not applied to each required data element required by section 3.a.

[B]E. The payment of compensation shall be considered overdue if not paid within 21 days of a valid claim or within the 45 days of investigation unless denied.

[C]E. Failure to make payment or to deny a claim within the 45 day time period without good cause shall result in a referral of the

insurance company to the Insurance Department for appropriate disciplinary action and may be cause for revocation of the self-insurance certification for a self-insured employer. Good cause is defined as:

1. Failure by an employee claiming benefits to sign requested medical releases;

2. Injury or occupational disease did not occur within the scope of employment;

3. Medical information does not support the claim;

4. Claim was not filed within the statute of limitations;

5. Claimant is not an employee of the employer he/she is making a claim against;

6. Claimant has failed to cooperate in the investigation of the claim;

7. A pre-existing condition is the sole cause of the medical problem and not the claimed work-related injury or occupational disease;

8. Tested positive for drugs or alcohol; or

9. Other - a very specific reason must be given.

[D]G. If an insurance carrier or self-insured employer begins payment of benefits on an investigation basis so as to process the claim in a timely fashion, a later denial of benefits based on newly discovered information may be allowed.

KEY: workers' compensation, filing deadlines, time, administrative proceedings

Date of Enactment or Last Substantive Amendment: ~~[February 25, 2013]~~

Authorizing, and Implemented or Interpreted Law: 34A-2-101 et seq.; 34A-3-101 et seq.; 34A-1-104

Natural Resources, Parks and Recreation R651-204 Regulating Waterway Markers

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 37601

FILED: 05/07/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In order to be consistent with Forestry, Fire and State Lands, the waterway hazard placement rule needs to be changed.

SUMMARY OF THE RULE OR CHANGE: The current rule does not address specific hazards to navigation, the permitting process through State Lands and the Division of Utah State Parks and Recreation, the owner's identification on the hazard or the international specifications and standards for a waterway hazard.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 73-18-4(2)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** No effect on state budget as this rule is the same process that has been used for years as an informal guideline.
- ◆ **LOCAL GOVERNMENTS:** No effect on local government as this rule is the same process that has been used for years as an informal guideline.
- ◆ **SMALL BUSINESSES:** No effect on small business as this rule is the same process that has been used for years as an informal guideline.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No effect on others as this rule is the same process that has been used for years as an informal guideline.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No effect on others as this rule is the same process that has been used for years as an informal guideline.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Should have no impact on business.

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

NATURAL RESOURCES
 PARKS AND RECREATION
 ROOM 116
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

AUTHORIZED BY: Fred Hayes, Director

**R651. Natural Resources, Parks and Recreation.
 R651-204. Regulating Waterway Markers.
 R651-204-1. Placement of Waterway Markers.**

No person shall place on or near the waters of this state any waterway marker, except a diver's flag, without written authorization by a federal agency operating within federal authority or by the division.

R651-204-2. Hazards to Navigation.

~~[No person shall place any permanent or anchored objects on the waters of this state without written authorization by a federal~~

~~agency operating within federal authority or by the division.]~~
(1) Definitions

- (a) "Hazard to Navigation" means, any object permanently placed on or under the waters of this state that is an obstacle to navigation, including but not limited to:
 - (i) pier or shoreline dock greater than 75 feet
 - (ii) floating dock or inflatable recreational equipment;
 - (iii) commercial fishing or scientific devices;
 - (iv) navigational aids;
 - (v) slalom courses, jump/rail or other recreational device;
 - (vi) vessels moored outside of a designated mooring area.
- (b) "Permanent" means intended to be left on the waterway overnight or unattended during the day.
- (2) No person shall place any permanent or anchored objects on the waters of this state without written authorization by a federal agency operating within federal authority or by the division.
- (3) All permitted water obstacles must be visibly marked with the owner's name with letters that are:
 - (a) a contrasting color to the object; and
 - (b) at least one inch in height with the letter width proportionate to the height.
- (4) Each permitted water obstacle must be marked with lights if placed overnight. Marker lights
 - (a) must meet United States Coast Guard requirements;
 - (b) must float at least 39 inches above the water;
 - (c) must be an amber or white color flashing light that flashes a minimum of 30 flashes per minute and is visible for up to one-half mile; and
 - (d) if buoyed, the buoy must be self-righting and have a three inch silver radar reflective band around the top.
- (5) Placement of water obstacles without a proper permit or failure to abide by the permit requirements constitute a violation of board rules and the water obstacles must be removed by the entity that placed the obstacle immediately upon notification. Water obstacles that create a hazard may be removed by the division at the owner's expense. Any damages incurred during removal by the division will not be the responsibility of the division.

R651-204-3. Destruction of Waterway Markers.

No person shall remove, destroy, or damage any waterway marker authorized to be placed by a federal agency or by the division; nor shall any person moor any vessel to a waterway marker, except mooring buoys.

KEY: boating

Date of Enactment or Last Substantive Amendment: ~~[1987]~~July 8, 2013

Notice of Continuation: January 26, 2011

Authorizing, and Implemented or Interpreted Law: 73-18-4(2)

**Natural Resources, Parks and
 Recreation
 R651-214
 Temporary Registration**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37602

FILED: 05/07/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Under the current rule, only a vessel dealer can apply for a temporary registration on the vessels in their inventory.

SUMMARY OF THE RULE OR CHANGE: There are many non-dealers who sell and purchase their vessels from non-dealers each year. The proposed changes will allow a non-dealer to apply for a temporary permit to allow a prospective buyer to test run the vessel without permanent/temporary registration. The 96-hour permit will allow a mechanic to legally test run the vessel on public water for a short time period.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 73-18-7(18)(d)

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: No effect on state budget as this rule change updates the rule to be consistent with Division of Motor Vehicles (DMV) procedures that have been in effect for some time.
- ◆ LOCAL GOVERNMENTS: No effect on local government as this rule change updates the rule to be consistent with DMV procedures that have been in effect for some time.
- ◆ SMALL BUSINESSES: No effect to small businesses as this rule change updates the rule to be consistent with DMV procedures that have been in effect for some time.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No effect on others as this rule change updates the rule to be consistent with DMV procedures that have been in effect for some time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No change in compliance costs as this rule change updates the rule to be consistent with DMV procedures that have been in effect for some time.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Should have a positive impact on business.

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

NATURAL RESOURCES
PARKS AND RECREATION
ROOM 116
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

AUTHORIZED BY: Fred Hayes, Director

R651. Natural Resources, Parks and Recreation.**R651-214. Temporary Registration.****R651-214-1. Temporary Registration.**

(1) A vessel dealer may apply for temporary registrations to be used on motorboats or sailboats sold by his business. The application to obtain temporary registrations is the same as outlined in Section R651-213-1.

(2) Each temporary registration will be valid for a period not to exceed 30 days from date of issue.

(3) A temporary registration will not be valid on any motorboat or sailboat held in the dealer's inventory for sale or any motorboat or sailboat not sold by the same dealer who issued the registration.

(4) A dealer shall not issue more than one temporary registration for any motorboat or sailboat.

(5) A dealer who obtains temporary registrations will be responsible for their issuance and is required to maintain records of each registration obtained and issued. Dealer records will contain a description of the vessel sold, the name and address of the purchaser, and the date issued.

(6) Temporary registration records kept by the dealer shall be made available for inspection and audit by authorized agents of the Division of Motor Vehicles during regular business hours.

(7) If the Division of Motor Vehicles has reasonable grounds to believe that a dealer has failed to comply with any of the above provisions, after notice to the dealer and a hearing, temporary registration issuance privileges may be canceled. Upon cancellation, the dealer will surrender all unissued temporary registrations to the Division of Motor Vehicles within 15 days.

(8) Temporary Operating Authority

(a) The division, or its authorized representatives, may grant a temporary permit to operate a vessel for which:

(i) application for registration has been made, or, in the case of a newly purchased vessel, will be made

(ii) evidence of ownership is provided; and

(iii) the proper fees have been paid.

(b) The temporary permit allows the vessel to be operated pending complete registration by displaying the temporary permit.

(c) If a vessel is operated on a temporary permit issued under this section, that vessel is subject to all other statutes, rules, and regulations intended to control the use and operation of vessels on the waterways.

(9) Relocation Permit

(a) Under rules made by the administrator, relocation permits may be issued by the division or its authorized representatives.

(b) Relocation permits allow use of the waterways for a time period not to exceed 96 hours.

(c) The division or its authorized representative may issue relocation permits without requiring a property tax clearance for the vessel on which the permit is to be used.

(d) Relocation permits allow for the purpose of testing for mechanical or seaworthiness of vessels.

(e) If a vessel is operated on a relocation permit under this section, that vessel is subject to all other statutes, rules, and regulations intended to control the use and operation of vessels on the waterways.

KEY: boating

Date of Enactment or Last Substantive Amendment: ~~[1987]~~ July 8, 2013

Notice of Continuation: February 10, 2011

Authorizing, and Implemented or Interpreted Law: 73-18-7(18) (d)

Natural Resources, Parks and
Recreation
R651-216-8
Use of Non-Navigational Lights

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37603

FILED: 05/07/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The uses of spotlights were limited under our "non-Navigation Lights" rule. Fishing, bow-fishing and scientific research at night routinely use spot lights.

SUMMARY OF THE RULE OR CHANGE: The fishing, bow-fishing and scientific research communities are asking for an exemption in the use of non-navigational lights outside of a navigational channel. The proposed exemption will legalize the use of these lights engaged in those activities.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 73-18-8(2)

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: This rule change will not affect the state budget as it makes exemptions for certain persons that use their vessels at night.
- ◆ LOCAL GOVERNMENTS: This rule change will not affect local government as it makes exemptions for certain persons that use their vessels at night.
- ◆ SMALL BUSINESSES: This rule change will not affect small business as it makes exemptions for certain persons that use their vessels at night.

- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule change will not affect others as it makes exemptions for certain persons that use their vessels at night.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change will not affect compliance costs as it makes exemptions for certain persons that use their vessels at night.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule could enhance business for bow-fishing sales of equipment.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
PARKS AND RECREATION
ROOM 116
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
◆ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

AUTHORIZED BY: Fred Hayes, Director

R651. Natural Resources, Parks and Recreation.
R651-216. Navigation Lights - Note: Figures 1 through 7 mentioned below are on file with the Utah Division of Parks and Recreation.
R651-216-8. Use of Non-Navigational Lights.

Vessels may only display lights as outlined above, except:
(a) a spotlight or other non-navigational light may be used intermittently to locate a hazard to navigation, or (b) non-navigational lights may be used during a federal or state permitted marine parade, [-]or (c) a spotlight or other non-navigational light may be used when actively engaged in fishing, bow fishing or scientific research on board vessels that are not in a navigational channel and that are being operated at a wakeless speed.

KEY: boating
Date of Enactment or Last Substantive Amendment: ~~[May 9, 2011]~~ July 8, 2013
Notice of Continuation: February 10, 2011
Authorizing, and Implemented or Interpreted Law: 73-18-8(2)

**Natural Resources, Parks and
Recreation
R651-611
Fee Schedule**

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 37625
FILED: 05/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Each year the Utah State Legislature and the Division of Parks and Recreation Board review and approve the Division of Park and Recreation's (Division) fee schedule.

SUMMARY OF THE RULE OR CHANGE: For Fiscal Year 2014, the Legislature passed S.B. 2 (2013 General Session), which included the Division's fee schedule. The change allows State Park management to increase fees up to the cap the legislature set if there is a need in the future. Fees will vary for programs and parks based upon the fee schedule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 79-4-203(8)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no expected costs or saving to the state budget. Although there are no projected costs or savings associated with implementing the Division's enacted fee schedule, any unforeseen costs will be paid for via the Division's restricted fund appropriation.
- ◆ **LOCAL GOVERNMENTS:** There are no predicted costs or saving to local governments. This affects state parks only.
- ◆ **SMALL BUSINESSES:** There are no projected costs or saving to small businesses. This change is for state parks only and should not affect small business.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is a possibility that visitors could see fee increases based upon S.B. 2 (2013). The legislature set a cap and park management may make increases up to that cap if management sees a need in the future. Cost increase is unknown at this time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs could vary for visitors to state parks. The fee schedule change allows state park managers and administration to raise the fees up to the cap the legislature set. Compliance costs are unknown at this time.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be little fiscal impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
PARKS AND RECREATION
ROOM 116
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

AUTHORIZED BY: Fred Hayes, Director

**R651. Natural Resources, Parks and Recreation.
R651-611. Fee Schedule.**

R651-611-1. Use Fees.

~~[All fees required under this fee schedule are to be paid in advance of occupancy or use of facilities.~~

~~A. Fees for services covering one or more months, for docks and dry storage, must be paid in advance for the season as determined by the Division.~~

~~B. Fee permits and passes are not refundable or transferable. Special fun tags will be issued only upon completion of an affidavit and payment of the required fee. Inappropriate use of fee permits and passes may result in confiscation by park authorities.~~

~~C. Fees shall not be waived, reduced or refunded unless authorized by Division guideline; however, park or unit managers may determine and impose equitable fees for unique events or situations not covered in the current fee schedule. The director and/or designees(s) have the prerogative to waive or reduce fees.~~

~~D. A competitive bid process may be used for establishing fees for recreation facilities as determined by the Division Director.~~

~~E. The Multiple Park Permit, Senior Multiple Park Permit, Special Fun Tag, Camping Permit and Daily Private Vehicle Permit are good for one (1) private vehicle with up to eight (8) occupants, with the exception of any special charges. Multiple Park Permits, Senior Multiple Park Permits, and Special Fun Tags, are not honored at This Is The Place State Park.~~

~~F. No charge for persons five years old and younger.~~

~~G. With the exception of the Multiple Park Permit, Senior Multiple Park Permit, and Special Fun Tag, fees are applicable only to the specific park or facility where paid and will not be honored at other parks or facilities, unless otherwise stated in division guideline.~~

~~H. The contract operator, with the approval of the Division Director, will set fees for This Is The Place Monument.~~

~~I. A "senior" is defined as any resident of the State of Utah 62 years of age or older. Residency and proof of age are verified by presentation of a valid driver's license or a valid Utah identification card.~~

J. Charges for services unique to a park may be established by the park manager with approval from the region manager. All approved charges must be submitted to the Division director or designee.

R651-611-2. Day Use Entrance Fees.

Permits the use of all day activity areas in a state park (except This Is The Place Monument). These fees do not include overnight camping facilities or special use fees.

A. Annual Permits

1. \$75.00 Multiple Park Permit (good for all parks except at This Is The Place Monument)

2. \$35.00 Senior Multiple Park Permit (good for all parks except at This Is The Place Monument)

3. \$200.00 Commercial Dealer Demonstration Pass

4. \$25 Pedestrian/Cyclist Permit (good at all parks except at This Is The Place Monument)

5. Utah veterans with a 50% or greater service-connected disability may purchase the Utah State Parks annual pass at the same rate as the Senior Adventure Pass. Veterans must complete the Veterans Discount affidavit and provide qualifying information from the Veterans Administration.

B. Special Fun Tag - Available free to Utah residents, who are disabled, as defined by the Special Fun Tag permit affidavit.

C. Daily Permit - Allows access to a specific state park on the date of purchase:

1. \$10.00 (\$5.00 for seniors) per private motor vehicle, or \$2.00 per person, (\$1.00 for seniors) for pedestrians or bicycles at the following park:

TABLE 1

Dead Horse Point

2. \$10.00 (\$5.00 for seniors) per private motor vehicle, or \$5.00 per person, (\$3.00 for seniors) for pedestrians or bicycles at the following parks:

TABLE 2

Deer Creek Jordanelle Hailstone
Willard Bay

3. \$10.00 (\$5.00 for seniors) per private motor vehicle, or \$4.00 per person, (\$2.00 for seniors) for pedestrians or bicycles at the following parks:

TABLE 3

Sand Hollow

4. \$9.00 (\$5.00 for seniors) per private motor vehicle or \$5.00 per person (\$3.00 for seniors), for pedestrians or bicycles at the following parks:

TABLE 4

Utah Lake

5. \$9.00 (\$5.00 for seniors) per private motor vehicle or \$4.00 per person (\$2.00 for seniors), for pedestrians or bicycles at the following parks:

TABLE 5

East Canyon Rockport

6. \$8.00 (\$4.00 for seniors) per private motor vehicle or \$4.00 per person (\$2.00 for seniors) for pedestrians or bicycles at the following parks:

TABLE 6

Bear Lake Marina Bear Lake Rendevous
Quail Creek

7. \$7.00 (\$4.00 for seniors) per private motor vehicle or \$4.00 per person (\$2.00 for seniors) for pedestrians or bicycles at the following parks:

TABLE 7

Jordanelle Rockcliff Yuba

8. \$7.00 (\$4.00 for seniors) per private motor vehicle or \$3.00 per person (\$2.00 for seniors) for pedestrians or bicycles at the following parks:

TABLE 8

Goblin Valley Red Fleet
Seofield Starvation
Steinaker

9. \$6.00 (\$3.00 for seniors) per private motor vehicle or \$3.00 per person (\$2.00 for seniors), for pedestrians or bicycles at the following parks:

TABLE 9

Goral Pink Myrum
Kodachrome Palisade

10. \$6.00 (\$3.00 for seniors) per private motor vehicle or \$2.00 per person (\$2.00) for seniors), for pedestrians or bicycles at the following park:

TABLE 10

Antelope Island

11. \$2.00 (\$1.00 for seniors) per private vehicle at the following park:

TABLE 11

Great Salt Lake

12. \$6.00 per adult, \$3.00 per child (a child is defined as any person between the ages of six (6) and twelve (12) years old inclusively), and \$3.00 for seniors at Utah Field House State Park.

13. \$5.00 per adult, \$3.00 per child (a child is defined as any person between the ages of six (6) and twelve (12) years old inclusively).

TABLE 12

Edge of the Cedars

14. \$2.00 per person (\$1.00 for seniors), or \$6.00 per family (up to eight (8) individuals (\$3.00 for seniors), at the following parks:

TABLE 13

Camp Floyd Territorial

15. \$4.00 per person (\$2.00 for seniors), or \$6.00 per family (up to eight (8) individuals (\$3.00 for seniors), at the following parks:

TABLE 14

Anasazi

16. \$3.00 per person (\$1.50 for seniors), or \$6.00 per family (up to eight (8) individuals (\$3.00 for seniors), at the following parks:

TABLE 15

Fremont Iron Mission

17. \$5.00 (\$3.00 for seniors) per private motor vehicle or \$3.00 per person (\$2.00 for seniors), for pedestrians or bicycles at the parks not identified above, including the east side of Bear Lake.

18. \$15.00 per OHV rider at the Jordan River OHV Center.

19. \$2.00 per person for commercial groups or vehicles with nine (9) or more occupants (\$15.00 per group at Great Salt Lake).

D. Group Site Day Use Fee - Advance reservation only: \$2.00 per person, age six (6) and over, for sites with basic facilities. Minimum cost for Group Day Use for the following parks:

TABLE 16

1. Fixed (flat) rate:	
Bear Lake - East Side	\$ 75.00
Bear Lake - Big Creek	\$ 75.00
Bear Lake - Willow	\$ 75.00
Bear Lake Marina	\$ 75.00
Camp Floyd Day Use Pavilion	\$ 30.00
Deer Creek Island	\$100.00
Deer Creek - Sailboat	\$100.00
Deer Creek - Peterson	\$100.00
Deer Creek - Rainbow	\$200.00
Deer Creek - Wallsburg	\$300.00
East Canyon - Small	\$100.00
East Canyon - Medium	\$175.00
Fremont	\$ 70.00
Hyrum	\$150.00
Jordanelle - Hailstone Cabanas	\$ 20.00
Jordanelle - Beach	\$175.00
Jordanelle - Cove	\$175.00
Jordanelle - Keatley	\$175.00
Jordanelle - Rock Cliff North	\$175.00
Jordanelle - Rock Cliff South	\$175.00
Jordanelle - Group Day Use Per	
Facility Hailstone Event Center	\$2,500.00
Otter Creek	\$100.00
Rockport - Crandalls	\$100.00
Rockport - Highland	\$100.00
Rockport - Lariat Loop	\$100.00
Rockport - Old Church	\$250.00
Snow Canyon - Galoot Day Use	\$ 75.00
Starvation - Mountain View	\$150.00
Steinaker	\$150.00
Wasatch - Cottonwood	\$175.00

Wasatch - Oak Hollow	\$175.00
Wasatch - Soldier Hollow	\$175.00
Willard - Eagle Beach (150 max)	\$200.00
Willard - Pelican Beach (250 max)	\$350.00
Yuba Lake - Group Day Use Area	\$ 75.00

2. \$3.00 per person and \$2.00 per vehicle at Antelope Island State Park.

3. \$2 per person with a minimum fee of \$50 at Huntington, Millsite and Palisade state parks.

E. Antelope Island Wildlife Management Program: A \$1.00 fee will be added to the entrance fee at Antelope Island. This additional fee will be used by the Division to fund the Wildlife Management Program on the Island.

R651-611-3. Camping Fees.

Permits overnight camping and day use for the day of arrival until 2:00 p.m. of the following day or each successive day. Camp sites must be vacated by 12:00 noon following the last camping night at Dead Horse Point. Except as provided in R651-606-5, camping is limited to 14 consecutive days at all campgrounds with the exception of Snow Canyon State Park, with a five (5) consecutive day limit.

A. Individual Sites -- One (1) vehicle with up to eight (8) occupants and any attached recreational equipment as one (1) independent camp unit. Fees for individual sites are based on the following schedule:

1. \$10.00 with pit or vault toilets; \$13.00 with flush toilets; \$16.00 with flush toilets and showers or electrical hookups; \$20.00 with flush toilets, showers and electrical hookups; \$25.00 with full hookups.

2. Primitive camping fees may be decreased at the park manager's discretion dependent upon the developed state of the facilities to be used by park visitors. Notification of the change must be made to the Division's financial manager and reservations manager before the reduced fee can be made effective.

3. Special Fun Tag holders may receive a \$2.00 discount for individual camping sites Monday through Thursday nights, excluding holidays.

4. One-half the campsite fee rounded up to the nearest dollar will be charged per vehicle at all parks and individual camping sites for all additional transportation vehicles that are separate and not attached to the primary vehicle, but are dependent upon that unit. No more than one additional vehicle is allowed at any individual campsite. This fee is not applicable at primitive campsites.

B. Group Sites - (by advance reservation for groups)

1. The following fees will apply to Overnight Group Camping:

TABLE 17

1. Reservation Fee: \$10.65 at the following parks:

Bear Lake - Eastside	\$ 75.00
Bear Lake - Big Creek	\$ 75.00
Bear Lake - Willow	\$ 75.00
Bear Lake Marina	\$ 75.00
Deer Creek - Wallsburg	\$400.00
East Canyon - Large Springs	\$ 50.00
East Canyon - Mormon Flats	\$ 75.00
East Canyon - New	\$200.00
Escalante Group Area	\$ 50.00
Fremont - Group Area	\$ 70.00
Hyrum	\$150.00

----- Jordanelle Beach -----	----- \$250.00
----- Jordanelle Cover -----	----- \$250.00
----- Jordanelle Keatley -----	----- \$250.00
----- Jordanelle Rock Cliff North -----	----- \$250.00
----- Jordanelle Rock Cliff South -----	----- \$250.00
----- Kodachrome Arches -----	----- \$ 65.00
----- Kodachrome Oasis -----	----- \$ 65.00
----- Otter Creek -----	----- \$100.00
----- Rockport Hawthorne -----	----- \$150.00
----- Rockport Riverside -----	----- \$150.00
----- Rockport Old Church -----	----- \$150.00
----- Snow Canyon Quail Group Area -----	----- \$ 65.00
----- Steinaker -----	----- \$200.00
----- Wasatch Soldier Hollow Chalet -----	----- \$250.00
----- Willard Pelican Beach (250 max) -----	----- \$350.00
----- Yuba Painted Rocks -----	----- \$100.00
----- Yuba Oasis -----	----- \$100.00

~~2. \$3.00 per person at Dead Horse (minimum \$45.00)~~

~~3. \$3.00 per person at Goblin Valley, Green River No.1 and No. 2, Starvation, Palisade and Scofield (minimum) \$75.00~~

~~4. \$3.00 per person and \$2 per vehicle. Antelope Island (minimum) \$60.00~~

R651-611-4. Special Fees:

- ~~-----~~ A. Golf Course Fees
 - ~~-----~~ 1. Palisade rental and green fees:
 - ~~-----~~ a. Nine holes general public -- weekends and holidays -- \$13.00
 - ~~-----~~ b. Nine holes weekdays (except holidays) -- \$11.00
 - ~~-----~~ c. Nine holes Jr/Sr weekdays (except holidays) -- \$8.00
 - ~~-----~~ d. 20 round card pass -- \$180.00
 - ~~-----~~ e. 20 round card pass (Jr only) -- \$125.00
 - ~~-----~~ f. Promotional pass - single person (any day) -- \$500.00
 - ~~-----~~ g. Promotional pass -- single person (weekdays only) -- \$350.00
 - ~~-----~~ h. Promotional pass - couples (any day) -- \$700.00
 - ~~-----~~ i. Promotional pass - family (any day) -- \$900.00
 - ~~-----~~ j. Promotional pass - annual youth pass -- \$150.00
 - ~~-----~~ k. Companion fee - walking, non-player -- \$4.00
 - ~~-----~~ l. Motorized cart (18 holes) -- \$10.00
 - ~~-----~~ m. Motorized cart (9 holes) -- \$5.00
 - ~~-----~~ n. Pull carts (9 holes) -- \$2.00
 - ~~-----~~ o. Club rental (9 holes) -- \$5.00
 - ~~-----~~ p. School teams - No fee for practice rounds with coach and team roster. Tournaments are \$3.00 per player.
 - ~~-----~~ q. Driving range - small bucket -- \$2.50
 - ~~-----~~ r. Driving range - large bucket -- \$3.50
- ~~-----~~ 2. Wasatch Mountain and Soldier Hollow rental and green fees:
 - ~~-----~~ a. Nine holes general public -- \$14.50
 - ~~-----~~ b. Nine holes general public (weekends and holidays) -- \$14.50
 - ~~-----~~ c. Nine holes Jr weekdays (except holidays) -- \$11.00
 - ~~-----~~ d. Nine holes Sr weekdays (except holidays) -- \$12.00
 - ~~-----~~ e. 20 round card pass -- \$240.00 - no holidays or weekends
 - ~~-----~~ f. Annual Promotional Pass (except holidays) -- \$1,000.00
 - ~~-----~~ g. Business Class Membership Pass -- \$1,000.00
 - ~~-----~~ h. Companion fee - walking, non-player -- \$4.00
 - ~~-----~~ i. Motorized cart (9 holes - mandatory on Mt. course) -- \$13.00
 - ~~-----~~ j. Motorized cart (9 holes single rider) -- \$6.50

- ~~-----~~ k. Pull carts (9 holes) -- \$2.25
- ~~-----~~ l. Club rental (9 holes) -- \$6.00
- ~~-----~~ m. School teams - No fee for practice rounds with coach and team roster (Wasatch County only). Tournaments are \$3.00 per player.
- ~~-----~~ n. Tournament fee (per player) -- \$5.00
- ~~-----~~ o. Driving range - small bucket -- \$2.50
- ~~-----~~ p. Driving range - large bucket -- \$5.00
- ~~-----~~ q. Advance tee time booking surcharge -- \$15.00
- ~~-----~~ r. Gift Certificate Fee (Per Player) -- \$5.00
- ~~-----~~ 3. Green River rental and green fees:
 - ~~-----~~ a. Nine holes general public -- \$10.00
 - ~~-----~~ b. Nine holes Jr/Sr weekdays (except holidays) -- \$8.00
 - ~~-----~~ c. Eighteen holes general public -- \$16.00
 - ~~-----~~ d. 20 round card pass -- \$160.00
 - ~~-----~~ e. Promotional pass - single person (any day) -- \$375.00
 - ~~-----~~ f. Promotional pass - personal golf cart -- \$350.00
 - ~~-----~~ g. Promotional pass -- single person (Jr/Sr weekdays) -- \$275.00
 - ~~-----~~ h. Promotional pass - couple (any day) -- \$600.00
 - ~~-----~~ i. Promotional pass - family (any day) -- \$750.00
 - ~~-----~~ j. Promotional pass - annual youth pass -- \$150.00
 - ~~-----~~ k. Companion fee - walking, non-player -- \$4.00
 - ~~-----~~ l. Motorized cart (9 holes) -- \$10.00
 - ~~-----~~ m. Motorized cart (9 holes single rider) -- \$5.00
 - ~~-----~~ n. Pull carts (9 holes) -- \$2.25
 - ~~-----~~ o. Club rental (9 holes) -- \$5.00
 - ~~-----~~ p. School teams - No fee for practice rounds with coach and team roster. Tournaments are \$3.00 per player.
- ~~-----~~ 4. Golf course hours are daylight to dark
- ~~-----~~ 5. No private, motorized golf carts are allowed, except where authorized by existing contractual agreement.
- ~~-----~~ 6. Jr golfers are 17 years and under. Sr golfers are 62 and older.
 - ~~-----~~ B. Boat Mooring and Dry Storage
 - ~~-----~~ 1. Mooring Fees:
 - ~~-----~~ a. Day Use -- \$5.00
 - ~~-----~~ b. Overnight Boat Parking -- \$7.00 (until 8:00 a.m.)
 - ~~-----~~ c. Overnight Boat Camping -- \$15.00 (until 2:00 p.m.)
 - ~~-----~~ d. Monthly -- \$4.00/ft.
 - ~~-----~~ e. Monthly with Utilities -- (Bear Lake and Jordanelle -- Hailstone) \$7.00/ft.
 - ~~-----~~ f. Monthly with Utilities -- (Other Parks) \$5.00/ft.
 - ~~-----~~ g. Monthly Off Season -- \$3.00/ft
 - ~~-----~~ h. Monthly (Off Season with utilities) -- \$4.00/ft
 - ~~-----~~ 2. Dry Storage Fees:
 - ~~-----~~ a. Overnight (until 2:00 p.m.) -- \$5.00
 - ~~-----~~ b. Monthly During Season -- \$75.00
 - ~~-----~~ c. Monthly Off Season -- \$50.00
 - ~~-----~~ d. Monthly (unsecured) -- \$25.00
 - ~~-----~~ C. Application Fees -- Non-refundable PLUS Negotiated Costs:
 - ~~-----~~ 1. Grazing Permit -- \$20.00
 - ~~-----~~ 2. Easement -- \$250.00
 - ~~-----~~ 3. Construction/Maintenance -- \$50.00
 - ~~-----~~ 4. Special Use Permit -- \$50.00
 - ~~-----~~ 5. Waiting List -- \$10.00
- ~~-----~~ D. Assessment and Assignment Fees:
 - ~~-----~~ 1. Duplicate Document -- \$10.00

- ~~2. Contract Assignment - \$20.00~~
- ~~3. Returned checks - \$30.00~~
- ~~4. Staff time - \$50.00/hour~~
- ~~5. Equipment Maintenance and Repair:~~
 - ~~- Snow Cat - \$100.00/hour~~
 - ~~- Boat - \$50.00/per hour~~
 - ~~- ATV/Snowmobile - \$50.00/hour~~
 - ~~- Other Heavy Equipment - \$100.00/hour~~
 - ~~- Vehicle - \$50.00/hour~~
- ~~6. Researcher - \$5.00/hour~~
- ~~7. Photo copy - \$.30/each - Black and White~~
~~- \$1.00/each - Color~~
- ~~8. Fee collection - \$10.00~~
- ~~E. Lodging Fees:~~
 - ~~1. Cabins:~~
 - ~~(a) Basic: No indoor plumbing or kitchenette~~
~~\$60 per night - weekend~~
~~\$40 per night - Sunday through Thursday~~
 - ~~(b) Deluxe: Indoor plumbing and kitchenette~~
~~\$80 per night - weekend~~
~~\$60 per night - Sunday through Thursday~~
 - ~~2. Yurt - (circular, domed portable tent)~~
~~\$60 per night~~
- ~~F. Facility Rental Fees:~~
 - ~~Jordanelle Visitor Center - Up to \$2,500 per day.~~

R651-611-5. Reservations.

- ~~A. Camping Reservation Fees:~~
 - ~~1. Individual Campsite \$8.50~~
 - ~~2. Group site or building rental \$10.65~~
- ~~3. Fees identified in No. 1 and No. 2 above are to be charged for both initial reservations and for changes to existing reservations.~~
- ~~B. All park facilities will be allocated on a first-come, first-serve basis.~~
- ~~C. Selected camp and group sites are reservable in advance by calling 322-3770, 1-800-322-3770 or on the Internet at: www.stateparks.utah.gov.~~
- ~~D. Applications for reservation of skating rinks, meeting rooms, buildings, mooring docks, dry storage spaces and other sites not covered above, will be accepted by the respective park personnel beginning on the first business day of February for the next 12 months. Application forms and instructions are available at the park.~~
- ~~E. All unreserved mooring docks, dry storage spaces and camp picnic sites are available on a first-come, first-serve basis.~~
- ~~F. The park manager for any group reservation or special-use permit may require a cleanup deposit.~~
- ~~G. Golf course reservations for groups of 20 or more and tournaments will be accepted for the calendar year beginning the first Monday of March. Reservations for up to two starting times (8-persons) may be made for Saturday, Sunday and Monday, the preceding Monday; and for Tuesday through Friday, the preceding Saturday. Reservations will be taken by phone and in person during golf course hours.~~
- ~~H. One party will reserve park facilities for more than fourteen (14) consecutive days in any 30-day period.~~
- ~~] All fees for the Division of Parks and Recreation may not exceed, but may be less than, the amounts stated in the division's fee schedule.~~

TABLE

1. Application Fees	
Easement, Grazing permit, Construction/Maintenance, Special Use Permit, Waiting List	\$250.00
2. Assessment and Assignment Fees	
Contract Assignment	\$20.00
Fee collection, return checks, and duplicate document	\$30.00
Staff or researcher time per hour	\$50.00
Equipment and building rental per hour	\$100.00
Photo copy each	\$1.00
3. Boating Fees	
Boat Mooring	
Day Use	\$6.00
Boat Camping (2:00pm) In/Off Season with or without Utilities (per foot)	\$20.00
Watercraft Launch Fee	\$7.00
Boat Storage	\$25.00
Boat Storage	\$200.00
4. Dry Storage	
Boating Season, Overnight until 2:00pm, Off-Season, Unsecured	\$75.00
5. Camping Fees	
Camping Extra Vehicle Fees	\$15.00
Camping Fees	\$28.00
Group Camping Fees	\$400.00
Reservation Fee	\$10.65
6. Entrance Fees	
Bicycles and Pedestrians	\$20.00
Bicycles and Pedestrians Annual Pass	\$24.00
Motor Vehicles	
Day Use Annual Pass	\$75.00
Commercial Dealer Demo Pass	\$200.00
Commercial Groups - per person	\$3.00
Commuter Annual Pass	\$10.00
Parking Fee	\$5.00
Causeway	\$2.00
Entrance Fees	\$15.00
Group Site Day-Use Fees	\$250.00
7. Golf Course Fees	
School Teams, Tournament Fee (per player)	\$6.00
Gift Certificate Fee (per player)	\$6.00
8. Golf Course GREENS FEES	
Promotional Pass -	
Single person - Personal golf cart	\$400.00
20 Round Card Pass	\$260.00
Promotional Promotional Pass 9 holes	\$1,100.00
Promotional Promotional Pass 9 holes	\$18.00
9. Golf Course Fees RENTALS	
Club Rental, per 9 holes	\$17.00
Motorized cart, per 9 holes	\$16.00
Pull carts, pre 9 holes	\$3.50
Companion Fee	\$7.00
Driving Range	\$9.00
10. Lodging Fees	
Cabins and Yurts	\$80.00
11. Repository Fees	
Curation Fee (per storage unit)	\$700.00
Annual Repository Agreement Fee (per storage unit)	\$80.00
Annual Agreement Fee	\$50.00
12. Boating Section Fees	
Statewide Boat Registration Fee	\$25.00
Carrying Passengers for Hire Fee	\$200.00
Boat Livery Registration Fee	\$100.00
13. Boating Education Fee	
Division's Personal Watercraft Course	\$12.00
State Issued and Replacement Boating Education certificate	\$5.00
14. OHV Program Fee	
Statewide OHV Registration Fee	\$22.00

State issued permit to non-resident OHVs, in which there is no reciprocity	\$30.00
15. OHV Education Fee	
Division's Off-highway Vehicle Program Safety Certificate	\$30.00
State Issued and Replacement OHV Safety Certificate	\$2.00

KEY: parks, fees

Date of Enactment or Last Substantive Amendment: [~~July 27, 2011~~] **July 8, 2013**

Notice of Continuation: January 24, 2011

Authorizing, and Implemented or Interpreted Law: 79-4-203(8)

**Natural Resources, Parks and Recreation
R651-614
Fishing, Hunting and Trapping**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 37585
FILED: 05/02/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Small game hunting is currently authorized at Gunlock State Park. There are no small game hunting opportunities at Gunlock State Park, so the current rule is not applicable. There are waterfowl hunting opportunities at Gunlock State Park. The current rule does not state that waterfowl can be hunted so there is a need for the changes to reflect that waterfowl hunting opportunities are allowed.

SUMMARY OF THE RULE OR CHANGE: Small game hunting is currently authorized at Gunlock State Park. It has been confirmed that there are no small game hunting opportunities at Gunlock State Park, so the current rule is not applicable. There are waterfowl hunting opportunities at Gunlock State Park. The current rule does not state that waterfowl can be hunted so there is a need for the changes to reflect that waterfowl hunting opportunities are allowed.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 79-4-501

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** Open waterfowl will both increase revenue and operation costs. Park revenue will increase some with Gunlock being open Saturdays in the hunting season, revenue will offset the staffing and operation expenses. Gunlock has never been staffed in November and December and the ramp has been closed at that time of year since the Quagga Mussel threat.

♦ **LOCAL GOVERNMENTS:** Local government will not be affected so there is no cost or savings to them.

♦ **SMALL BUSINESSES:** Businesses along the roads could see an increase of sales in food, fuel and hunting supplies. Estimate increase for the season, \$2,000.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Persons other than small businesses, businesses, or local government entities: Hunters will be very happy to have Gunlock open for waterfowl hunting. During the season, the ramp will be open on weekends. Participants will incur personal hunting expenses which vary.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Park day use fee at Gunlock are \$7 per day and camping is \$15. Day visitors may use their annual park pass for entering Gunlock. Entrance fees will allow a person to hunt waterfowl. Hunting licenses for this purpose must also be purchased.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Should have no impact in business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
PARKS AND RECREATION
ROOM 116
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

AUTHORIZED BY: Fred Hayes, Director

R651. Natural Resources, Parks and Recreation.

R651-614. Fishing, Hunting and Trapping.

R651-614-1. Applicability of the Utah Fish and Game Code.

Fishing, hunting and trapping shall be in accordance with the Utah Fish and Game Code, with the following provisions.

R651-614-2. Fishing near Public Areas.

Fishing from or within 100 feet of any public float designed for water sports, developed beaches, public loading docks, or boat ramps is prohibited.

R651-614-3. Ice Fishing.

Ice fishing is prohibited in areas posted closed by the park manager.

R651-614-4. Hunting Wildlife.

Hunting of any wildlife is prohibited within the boundaries of all park areas except those designated open as follows:

- (1)(a) Antelope Island State Park - By special permit only
 (b) Antelope Island permits to hunt bison shall be available, distributed and utilized consistent with the following statutes and rules of the Division of Wildlife Resources to the same extent as if the bison were considered wildlife: (1) Utah Code Sections 23-13-2; 23-19-1, 23-19-5; 23-19-6, 23-19-9(11), 23-19-11 and 23-20-27; (2) Utah Administrative Code Sections R657-5-4, R657-5-8 through 12, R657-5-14 and 15, R657-5-24 and 25, R657-5-27 and 28, R657-5-34, R657-5-37, R657-5-53, R657-5-62, and Rules R657-12, R657-23, R657-32, R657-42, and R657-50.
 (c) Subsection R651-614-4(1)(b) shall be applied retroactively only to the incorporation of Utah Administrative Code Sections R657-5-24, R657-5-25, R657-5-27, R657-5-34, and R657-5-37.
- (2) Coral Pink Sand Dunes State Park - small game
 (3) Deer Creek State Park - small game and waterfowl
 (4) East Canyon State Park - small game
 (5) Gunlock State Park - ~~small game~~ waterfowl
 (6) Huntington State Park - waterfowl
 (7) Hyrum State Park - small game
 (8) Jordanelle State Park - big and small game and waterfowl
 (9) Minersville - waterfowl
 (10) Quail Creek State Park - waterfowl
 (11) Rockport State Park - waterfowl
 (12) Scofield State Park - waterfowl
 (13) Starvation State Park - big and small game
 (14) Steinaker State Park - waterfowl, falconry between October 15 and April 14 annually.
 (15) Pioneer Trail, Mormon Flat Unit - big and small game
 (16) Wasatch Mountain State Park - big and small game
 (17) Yuba State Park - small game

R651-614-5. Hunting with Firearms.

Hunting with rifles and handguns on park areas designated open is prohibited within one mile of all park area facilities, including, but not limited to buildings, camp/picnic sites, overlooks, golf courses, boat ramps and developed beaches. Shotguns and archery equipment are prohibited within one-quarter mile of above stated areas.

R651-614-6. Trapping.

All trapping on park areas is prohibited except when authorized and permitted by the park manager.

KEY: parks

Date of Enactment or Last Substantive Amendment: [~~October 2, 2003~~2013]

Notice of Continuation: July 7, 2008

Authorizing, and Implemented or Interpreted Law: 79-4-501

Natural Resources; Forestry, Fire and
 State Lands
R652-70-2300
 Management of Bear Lake Sovereign
 Lands

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37623

FILED: 05/14/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change provides for the management and classification of the surface of sovereign lands in Utah, which include but are not limited to, the beds of Bear Lake, the Great Salt Lake, Utah Lake, the Jordan River, and the summer channel of the Bear River, and portions of the beds of the Green and Colorado Rivers. This rule also provides for the issuance of special use leases, general permits, and easements on sovereign lands and the procedures and fees necessary to obtain these rights of use. This rule implements Article XX of the Utah Constitution, and Section 65A-10-1.

SUMMARY OF THE RULE OR CHANGE: This rule amendment implements Subsection 65A-2-6(2) with regard to launching or retrieving a vessel in an area adjacent to the landowner's property at Bear Lake. This rule establishes criteria for launching vessels adjacent to landowner's property and the required permitting, along with the completion of the Mussel-Aware Boater Program and requirement to obtain a Decontamination Certification.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 65A-2-6

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The division will incur minimal costs for the processing of the permit application and issuance of the permit. However, any costs incurred will be covered by the \$25 permit fee.

♦ **LOCAL GOVERNMENTS:** The proposed amendment will not result in direct, measurable costs or benefits to local government as this amendment deals with launching and retrieving of a vessel in an area adjacent to a landowner's property.

♦ **SMALL BUSINESSES:** This amendment only affects adjacent landowners who desire to launch or retrieve a vessel from an area adjacent to the landowners property. If the landowners is a small business and they desire to launch or retrieve a vessel from an area adjacent from their property, then a permit would be required at the cost of \$25 along with being required to obtain a Decontamination Certificate.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Adjacent landowners will have to purchase a beach launching permit. Adjacent landowners will also have to comply with the Mussel-Aware Boater Program and obtain a Decontamination Certification.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Not to exceed \$25 for each beach launching permit.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Should have no fiscal impacts.

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 STE 3520
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Jamie Phillips-Barnes by phone at 801-538-5421, by FAX at 801-533-4111, or by Internet E-mail at jamiebarnes@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

AUTHORIZED BY: Richard Buehler, Director

R652. Natural Resources; Forestry, Fire and State Lands.

R652-70. Sovereign Lands.

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 water's edge.~~

~~_____ (d) Unless posted otherwise, or to access a camping or picnicking spot, no motor vehicles may travel parallel to the water's 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.~~

~~_____ (8) The use and operation of motor vehicles on sovereign land at Bear Lake shall be governed by Utah Code 65A-3-1 and the Bear Lake CMP.~~

~~_____ (9) Pursuant to 65A-2-6(2), to obtain a permit to launch or retrieve a vessel in an area adjacent to the landowner's property at Bear Lake, the adjacent landowner shall:~~

~~_____ (a) provide proof of being an adjacent landowner as defined in 65A-2-6(1) and above in R652-70-300(2)(c).~~

~~_____ (b) complete the online Mussel-Aware Boater Program and receive a Decontamination Certification Form valid through the end of the calendar year as required and provided by the Utah Division of Wildlife Resources as part of the Aquatic Invasive Species Program.~~

~~_____ (10) Each adjacent landowner surrounding Bear Lake may only be issued two(2) beach launching permits annually. They will not be replaced if lost or stolen.~~

~~_____ (a) The permit is valid for the calendar year within which the permit is issued.~~

~~_____ (b) the permit is for the sole purpose of launching or retrieving a water vessel.~~

~~_____ (c) the permit does not authorize parking or operating a motor vehicle in an area designated as closed in the Bear Lake Comprehensive Management Plan in violation of 65A-3-1(3).~~

~~_____ (11) the division may enter into an agreement with a local governmental entity or state agency to issue the beach launching permits to adjacent landowners in compliance with the requirements listed above.~~

~~_____ (a) the agreement will allow the entity or agency to establish a minimal fee not to exceed \$25 for issuing the beach launching permit.~~

~~_____ (12) The division or the entity or agency with an agreement to issue the beach launching permit may revoke or deny an adjacent landowner a permit to launch under the following circumstances:~~

(a) the adjacent landowner fails to comply with the beach launching permit requirements and stipulations listed above (R652-70-2300(9)(a-b) and R652-70-2300(10)(a-c))

(b) the adjacent landowner fails to acquire a lease or permit for structures placed on sovereign lands that may include but not limited to buoys, piers, docks (with the associated anchors/weights) or boat ramps as required in R652-70-300.

([7]13) Persons found in violation of 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).

KEY: sovereign lands, permits, administrative procedures

Date of Enactment or Last Substantive Amendment: [February 25, 2010]2013

Notice of Continuation: April 2, 2012

Authorizing, and Implemented or Interpreted Law: 65A-10-1

Natural Resources, Wildlife Resources R657-64 Predator Control Incentives

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37609

FILED: 05/09/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This purpose of this rule amendment is to allow the division flexibility with participants in the Targeted Predator Control Program for effectively control coyotes in a targeted area that are detrimental to mule deer production.

SUMMARY OF THE RULE OR CHANGE: This rule amendment allows for exemptions to specified provisions of Rule R657-11 as determined by the Division of Wildlife Resources (DWR) to participants in the Targeted Predator Control Program.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-13-2 and Section 23-30-104

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This rule amendment allows for flexibility as determined by the division to participants in the Targeted Predator Control Program. DWR determines that these amendments will not create any cost or savings impact to the state budget or DWR's budget, and will be carried out with the money allocated by the State Legislature under the Mule Deer Protection Act.

♦ **LOCAL GOVERNMENTS:** Since this amendment only allows for flexibility with participants in the Targeted Predator Control Program, DWR determines that this filing does not create any direct cost or savings impact to local governments since 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:** Since this rule amendment allows the division flexibility with participants in the Targeted Predator Control Program, DWR determines this filing does not create a direct cost or savings impact to small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Since this rule amendment allows the division flexibility with participants in the Targeted Predator Control Program, DWR determines this filing does not create a direct cost or savings impact to other persons who participate in the program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that this rule amendment does not create a cost or savings impact to individuals in Utah.

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.

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 by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

AUTHORIZED BY: Gregory Sheehan, Director

R657. Natural Resources, Wildlife Resources.

R657-64. Predator Control Incentives.

R657-64-1. Purpose and Authority.

(1) This rule is promulgated under authority of Section 23-30-104 to establish procedures for:

(a) targeted predator control and general predator control programs administered by the division for the benefit of mule deer; and

(b) creation and distribution of educational and training materials related to mule deer protection.

R657-64-3. Predatory Animal Control Programs.

(1) Two predatory animal control programs are created within the division to provide financial incentive to participants for the removal of coyotes detrimental to mule deer production.

(a) The General Predator Control Program provides a financial incentive to any registered participant to remove coyotes within the State.

(i) The financial incentive to participate in the program and remove coyotes under the conditions prescribed in this rule and by the division is \$50 compensation per animal, unless otherwise adjusted by the division, to be paid in accordance with R657-64-4.

(b) The Targeted Predator Control Program provides compensation by contract to preapproved vendors to remove coyotes within prescribed areas of the State and during specified times of the year where predation on deer is most prevalent.

(2) Participants in either program are not granted special authority to take coyotes beyond that available to non-participants, and each shall comply with all applicable federal, state, and local laws.

(3) ~~Participants~~ (a) Except as provided in Subsection (3)(b) participants in both programs are required to follow all relevant rules and regulations related to trapping and firearm use, as detailed in state code and rule R657-11, "Taking Furbearers."

(b) The division may exempt a participant in the Targeted Predator Control Program from specified provisions of R657-11 which the division determines necessary to effectively control coyotes in a targeted area that are detrimental to mule deer production.

KEY: wildlife, predators, game laws, wildlife laws
Date of Enactment or Last substantive Amendment: ~~August 7, 2012~~ 2013
Authorizing, and Implementing or Interpreted Law: 23-30-102; 23-30-104; 23-13-17

Public Safety, Driver License
R708-33
Electric Assisted Bicycle Headgear

NOTICE OF PROPOSED RULE
 (Repeal)
 DAR FILE NO.: 37612
 FILED: 05/13/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rulemaking authority is no longer granted by statute as a result of the traffic code recodification from Title 41, Chapter 6 to Title 41, Chapter 6a, which occurred during the 2005 General Session in S.B. 5.

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

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-6a-1505

ANTICIPATED COST OR SAVINGS TO:
 ♦ THE STATE BUDGET: Because the underlying statute authorization no longer exists and because the division no

longer enforces this rule, there are no costs or savings associated with this rule.

♦ LOCAL GOVERNMENTS: Because the underlying statute authorization no longer exists and because the division no longer enforces this rule, there are no costs or savings associated with this rule.

♦ SMALL BUSINESSES: Because the underlying statute authorization no longer exists and because the division no longer enforces this rule, there are no costs or savings associated with this rule.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Because the underlying statute authorization no longer exists and because the division no longer enforces this rule, there are no costs or savings associated with this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the underlying statute authorization no longer exists and because the division no longer enforces this rule, there are no costs or savings associated with this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact.

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:
 ♦ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

AUTHORIZED BY: Nannette Rolfe, Director

R708. Public Safety, Driver License.

~~**R708-33. Electric Assisted Bicycle Headgear.**~~

~~**R708-33-1. Authority.**~~

~~(1) This rule is promulgated in accordance with the electric assisted bicycle operators headgear specifications and standards as required by Subsection 41-6a-1505.~~

~~**R708-33-2. Purpose.**~~

~~(1) The purpose of this rule is to establish the specifications and standards for protective headgear while riding electric assisted bicycles.~~

~~R708-33-3. Operator Headgear Requirement for Electric Assisted Bicycles.~~

~~(1) In accordance with Subsection 41-6a-1505, all operators of electric assisted bicycles are required to wear protective headgear. The protective headgear must meet the specifications and standards as listed in Section R708-33-4.~~

~~R708-33-4. Headgear Specifications and Standards for Operators of Electric Assisted Bicycles.~~

~~(1) The standards and specifications as contained in the publication entitled "1995 Standard For Protective Headgear" as published by Snell Memorial Foundation, INC., 7 Flowerfield, Suite 28, St. James, New York 11780-1514, 1995 edition, are hereby incorporated by reference.~~

~~R708-33-5. Copies Are Retained.~~

~~(1) Copies of the incorporated by reference document, as listed above, is available for review at two locations: The Division of Administrative Rules, 3120 State Office Building, Salt Lake City, Utah 84114; and at the Utah Department of Public Safety, Driver License Division, 4501 South 2700 West, Salt Lake City, Utah 84119.~~

~~KEY: electric assisted bicycle headgear~~

~~Date of Enactment or Last Substantive Amendment: June 21, 1996~~

~~Notice of Continuation: January 31, 2011~~

~~Authorizing, and Implemented or Interpreted Law: 41-6a-1505]~~

Public Safety, Criminal Investigations
and Technical Services, Criminal
Identification

R722-300

Concealed Firearm Permit and
Instructor Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37606

FILED: 05/08/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to address statutory changes made in H.B. 211, 2013 General Session, to clarify the process of applying for and/or renewing a Concealed Firearm Permit and/or Instructor Certification, to allow use of photos contained in the BCI database for subsequent applications (within three years), and to address formatting and grammatical changes.

SUMMARY OF THE RULE OR CHANGE: Changes to this rule respond to statutory change, clarify the process for application/renewal of a Concealed Firearm Permit and/or a Concealed Firearms Instructor Certification, allow use of

photos contained in the BCI database for subsequent applications (within three years), and make formatting and grammatical changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 53-5-701 through 53-5-711

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There may be an aggregate anticipated cost to state budget. This proposed rule addresses a statutory change requiring the concealed firearm permit renewal fee to be waived for members of the military and their spouses as long as the service member presents orders requiring the active duty service member to report for duty in Utah, or an active duty service member's spouse presents the active duty service member's orders requiring the service member to report for duty in Utah. The waiver of the renewal fees may generate a cost to the state budget because the renewal fees are used to cover the costs associated with processing the renewal application.

◆ **LOCAL GOVERNMENTS:** There is no aggregate anticipated cost or savings to local government because these proposed amendments may affect only the state budget.

◆ **SMALL BUSINESSES:** There is no aggregate anticipated cost or savings to small businesses because these proposed amendments may affect only the state budget.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These proposed amendments may generate a cost savings to those qualified military persons and spouses who are assigned to Utah and are not required to submit proof of their own state's concealed firearm permit, and who have the fee waived for renewal of the Concealed Firearm Permit, or who will not have to submit subsequent photos if a recent photo (within three years) is contained in BCI files.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons, and instead may generate a savings for those that qualify for the waiver of the requirement to provide proof of one's own state's concealed firearm permit, the waiver of the concealed firearm renewal fees, and the waiver to submit subsequent photos if a recent photo (within three years) is contained in BCI files.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact this rule will have on business. This rule establishes procedures whereby the Bureau of Criminal Identification (BCI) administers the Concealed Firearms Act. The permits and processes are specific to BCI, and therefore have no fiscal impact on business.

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

PUBLIC SAFETY
CRIMINAL INVESTIGATIONS AND TECHNICAL
SERVICES, CRIMINAL IDENTIFICATION

3888 W 5400 S
TAYLORSVILLE, UT 84118
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Alice Moffat by phone at 801-965-4939, by FAX at 801-965-4944, or by Internet E-mail at aerickso@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

AUTHORIZED BY: Alice Moffat, Bureau Chief

R722. Public Safety, Criminal Investigations and Technical Services, Criminal Identification.

R722-300. Concealed Firearm Permit and Instructor Rule.

R722-300-1. Purpose.

The purpose of this rule is to establish procedures whereby the bureau administers the Concealed Firearms Act in accordance with Title 53, Chapter 5, Part 7.

R722-300-2. Authority.

This rule is authorized by [Section]Subsection 53-5-704(17) which provides that the commissioner may make rules necessary to administer Title 53, Chapter 5.

R722-300-3. Definitions.

(1) Terms used in this rule are defined in Sections 53-5-702, 53-5-711, 76-10-501.

(2) In addition:

(a) "applicant" means an individual seeking to obtain or renew a permit, a temporary permit, an instructor certification, or [a]n LEOJ permit from the bureau;

(b) "certified firearms instructor" means an individual certified by the bureau pursuant to [Section]Subsection 53-5-704(9) who can certify that an applicant meets the general firearm familiarity requirement under [Section]Subsection 53-5-704(8);

(c) "certified firearms instructor official seal" means a red, self-inking stamp containing the information required in Subsection 53-5-704(11)(a)(iii) which meets the design requirements described on the bureau's website;

(d) "crime of violence" means a crime under the laws of this state, any other state, the United States, or any district, possession, or territory of the United States which has, as an element, the use, threatened use, or attempted use of physical force or a dangerous weapon;

(e) "felony" means a crime under the laws of this state, any other state, the United States, or any district, possession, or territory of the United States for which the penalty is a term of imprisonment in excess of one year;

(f) "FBI" means the Federal Bureau of Investigation;

(g) "instructor certification" means a concealed firearm instructor certification issued by the bureau pursuant to [Section]Subsection 53-5-704(9);

(h) "LEOJ permit" means a permit to carry a concealed firearm issued to a judge or law enforcement official by the bureau pursuant to Section 53-5-711;

(i) "nonresident" means a person who:

(i) does not live in the state of Utah; or

(ii) has established a domicile outside Utah, as that term is defined in Section 41-1a-202.

(j) "NRA" means the National Rifle Association;

(k) "offense involving domestic violence" means a crime under the laws of this state, any other state, the United States, or any district, possession, or territory of the United States involving any of the conduct described in:

(i) Section 77-36-1; or

(ii) 18 U.S.C [Section]Subsection 921(a)(33);

(l) "offense involving moral turpitude" means a crime under the laws of this state, any other state, the United States, or any district, possession, or territory of the United States involving conduct which:

(i) is done knowingly contrary to justice, honesty, or good morals;

(ii) has an element of falsification or fraud; or

(iii) contains an element of harm or injury directed to another person or another's property;

(m) "offense involving the use of alcohol" means a crime under the laws of this state, any other state, the United States, or any district, possession, or territory of the United States involving any of the conduct described in:

(i) Section 32A-12-209;

(ii) Section 32A-12-220;

(iii) [Section]Subsection 41-6a-501(2) related to the use of alcohol;

(iv) Section 41-6a-526; or

(v) Section 76-10-528 related to carrying a dangerous weapon while under the influence of alcohol;

(n) "offense involving the unlawful use of narcotics or controlled substances" means:

(i) any offense listed in [Section]Subsection 41-6a-501(2) involving the use of a controlled substance;

(ii) any offense involving the use or possession of any controlled substance found in Title 58, Chapters 37, 37a, or 37b; or

(iii) the crime of carrying a dangerous weapon while under the influence of a controlled substance pursuant to Section 76-10-528;

(o) "past pattern of behavior involving unlawful violence" means verifiable incidents, regardless of whether there has been an arrest or conviction, that would lead a reasonable person to believe that an individual has a violent nature and would be a danger to themselves or others, including an attempt or threat to commit suicide[-];

(p) "permit" means a permit to carry a concealed firearm issued by the bureau pursuant to Section 53-5-704;

(q) "POST" means the Utah Department of Public Safety, Division of Peace Officer Standards and Training;

(r) "revocation" means the permanent deprivation of a permit, instructor certification, or certificate of qualification[-; ~~Revocation of a permit, instructor certification, or certificate of qualification~~]. however revocation does not preclude an individual from applying for a new permit, instructor certification, or certificate of qualification if the reason for revocation no longer exists;

(s) "suspension" means the temporary deprivation, for a specified period of time, of a permit, instructor certification, or certificate of qualification; and

(t) "temporary permit" means a temporary permit to carry a concealed firearm issued by the bureau pursuant to Section 53-5-705.

R722-300-4. Application for a Permit to Carry a Concealed Firearm.

(1)(a) An applicant seeking to obtain a permit ~~[must]~~shall submit a completed permit application packet to the bureau.

(b) The permit application packet shall include:

(i) a written application form provided by the bureau ~~[which shall include]~~with the address of the applicant's permanent residence;

(ii) a photocopy of a state-issued driver license or identification card;

(iii) one recent color photograph of passport quality which contains the applicant's name written on the back of the photograph, unless the applicant submitted a photo which meets these requirements to the bureau within the previous three years;

(iv) one completed FBI applicant fingerprint card (Form FD-258) with the applicant's legible fingerprints;

(v) a non-refundable processing fee in the form of cash, check, money order, or credit card, which consists of the fee established by ~~[Section]~~Sections 53-5-704 and 53-5-707, along with the FBI fingerprint processing fee;

(vi) evidence indicating that the applicant has general familiarity with the types of firearms to be concealed as required by Subsection 53-5-704(6)(d);

(vii) any mitigating information that the applicant wishes the bureau to consider when determining whether the applicant meets the qualifications set forth in Subsection 53-5-704(2)(a); and

(viii) a copy of the applicant's current concealed firearm permit or concealed weapon permit issued by the applicant's state of residency if the applicant is a nonresident who resides in a state that recognizes the validity of the Utah permit or has reciprocity with Utah's concealed firearm permit law, ~~[a copy of the applicant's current concealed firearm permit or concealed weapon permit issued by the applicant's state of residency]~~unless the applicant is an active duty service member who presents orders requiring the active duty service member to report for duty in Utah or an active duty service member spouse who presents the active duty service member's orders requiring the service member to report for duty in Utah.

(2) An applicant may establish evidence of general familiarity with the types of firearms to be concealed as required in Subsection 53-5-704(6)(d) by submitting a signed certificate, issued within one year of the date of the application, bearing a certified firearms instructor's official seal, certifying that the applicant has completed the required firearms course of instruction established by the bureau.

(3) If the applicant is employed as a law enforcement officer, the applicant:

(i) ~~[a]~~ ~~[shall]~~may not be required to pay the application fee; and

(ii) ~~[b]~~ may establish evidence of general familiarity with the types of firearms to be concealed as required in Subsection 53-5-704(6)(d) by submitting documentation from a law enforcement agency located within the state of Utah indicating that the applicant has successfully completed the firearm qualification requirements of that agency within the last five years.

(4)(a) Upon receipt of a complete permit application packet, the bureau shall conduct a thorough background investigation to

determine if the applicant meets the requirements found in Subsections 53-5-704(2) and (3).

(b) The background investigation shall consist of the following:

(i) sending the fingerprint card to the FBI for a review of the applicant's criminal history record pursuant to Section 53-5-706; and

(ii) verifying the accuracy of the information provided in the application packet through a search of local, state and national records which may include, but is not limited to, the following:

(A) the Utah Computerized Criminal History database;

(B) the National Crime Information Center database;

(C) the Utah Law Enforcement Information Network;

(D) state driver license records;

(E) the Utah Statewide Warrants System;

(F) juvenile court criminal history files;

(G) expungement records maintained by the bureau;

(H) the National Instant Background Check System;

(I) the Utah Gun Check Inquiry Database;

(J) Immigration and Customs Enforcement records; and

(K) Utah Department of Corrections Offender Tracking System; and

(L) the Mental Gun Restrict Database.

(5)(a) If the background check indicates that an applicant does not meet the qualifications set forth in Subsection 53-5-704(2)(a), the bureau shall consider any mitigating circumstances submitted by the applicant.

(b) If the applicant does not meet the qualifications set forth in Subsection 53-5-704(2)(a) because the applicant has been convicted of a crime, the bureau may find that mitigating circumstances exist if the applicant was not convicted of a registerable sex offense, as defined in Subsection 77-27-21.5(1)(n), and the following time periods have elapsed from the date the applicant was convicted or released from incarceration, parole, or probation, whichever occurred last:

(i) five years in the case of a class A misdemeanor;

(ii) four years in the case of a class B misdemeanor; or

(iii) three years in the case of any other misdemeanor or infraction.

(c) Notwithstanding any other provision, the bureau may not grant a permit if the applicant does not meet the qualifications in Subsection 53-5-704(2)(a)(viii).

(6)(a) If the bureau determines that the applicant meets the requirements found in ~~[Subsection]~~Subsections 53-5-704(2) and ~~53-5-704(3)~~, the bureau shall issue a permit to the applicant within 60 days.

(b) The permit shall be mailed to the applicant at the address listed on the application.

(7)(a) If the bureau determines that the applicant does not meet the requirements found in ~~[Subsection]~~Subsections 53-5-704(2) and ~~53-5-704(3)~~, the bureau shall mail a letter of denial to the applicant, return receipt requested.

(b) The denial letter shall state the reasons for denial and indicate that the applicant has a right to request a review hearing before the board by filing a petition for review within 60 days as provided in ~~[Section]~~Subsection 53-5-704(16).

R722-300-5. Application for a Concealed Firearms Instructor Certification.

(1)(a) An applicant seeking to be certified as a Utah concealed firearms instructor ~~[must]~~shall submit a completed instructor certification application packet to the bureau.

(b) The instructor certification application packet shall include:

(i) a written instructor certification application form provided by the bureau with the applicant's residential or physical address and public contact information;

(ii) a photocopy of a state-issued driver license or identification card;

(iii) one recent color photograph of passport quality which contains the applicant's name written on the back of the photograph, unless the applicant submitted a photo which meets these requirements to the bureau within the previous three years;

(iv) a non-refundable processing fee in the form of cash, check, money order, or credit card;

(v) evidence that the applicant has completed a firearm instructor training course from the NRA or POST, or received training equivalent to one of these courses, as required by Subsection 53-5-704(9)(a)(iii); and

(vi) evidence that the applicant has completed the course of instruction provided under the direction of the bureau and passed the certification test provided in Subsection 53-5-704(9)(c), within one year of the date of the application.

(2)(a) An applicant who has not completed a firearm instructor training course from the NRA or POST, may meet the requirement in R722-300-5(1)(b)(v) by providing evidence that the applicant has completed a firearm instructor training course that is at least eight ~~[(8)]~~ hours long and includes the following training components:

(i) instruction and demonstration on:

(A) the safe, effective, and proficient use and handling of firearms;

(B) firearm draw strokes;

(C) the safe loading, unloading and storage of firearms;

(D) the parts and operation of a handgun;

(E) firearm ammunition and ammunition malfunctions, including misfires, hang fires, squib loads, and defensive/protection ammunition vs. practice ammunition;

(F) firearm malfunctions, including failure to fire, failure to eject, feed way stoppage and failure to go into battery;

(G) shooting fundamentals, including shooter's stance, etc.;

and
(H) firearm range safety rules; and

(ii) a practical exercise with a proficiency qualification course consisting of not less than 30 rounds and a required score of 80% or greater to pass.

(b) The evidence required in R722-300-5(2)(a) shall include a copy of the:

(i) course completion certificate showing the date the course was completed and the number of training hours completed; and

(ii) training curriculum for the course completed.

(3)(a) If the bureau determines that an applicant meets the requirements found in Subsection 53-5-704(9), the bureau shall issue an instructor certification to the applicant.

(b) An instructor certification identification card shall be mailed to the applicant at the residential or physical address listed on the application.

(4)(a) If the bureau determines that the applicant does not meet the requirements found in Subsection 53-5-704(9), the bureau shall mail a denial letter to the applicant, return receipt requested.

(b) The denial letter shall state the reasons for denial and indicate that the applicant has a right to request a review hearing before the board by filing a petition for review within 60 days as provided in ~~[Section]~~Subsection 53-5-704(16).

R722-300-6. Renewal of a Concealed Firearms Permit or Concealed Firearms Instructor Certification.

(1)(a) An applicant seeking to renew a permit or an instructor certification ~~[must]~~shall submit a completed renewal packet to the bureau.

(b) The renewal packet for an applicant seeking to renew a permit shall include:

(i) a written renewal form provided by the bureau ~~[which shall include]~~with the current address of the applicant's permanent residence;

(ii) one recent color photograph of passport quality which contains the applicant's name written on the back of the photograph, unless the licensee submitted a photo which meets these requirements to the bureau within the previous three years; and

~~[(i)]~~[(iii)] a non-refundable processing fee in the form of cash, check, money order, or credit card, unless the applicant is an active duty service member who presents orders requiring the active duty service member to report for duty in Utah or an active duty service member spouse who presents the active duty service member's orders requiring the service member to report for duty in Utah.

~~[(2)]~~ In addition to the items listed in Subsection (1)(b), an instructor seeking to renew an instructor certification must submit evidence that the instructor has completed the course of instruction provided under the direction of the bureau and passed the certification test provided in Subsection 53-5-704(9)(c), within one year of the date of the application.

(c) The renewal packet for an applicant seeking to renew an instructor certification shall include:

(i) a written renewal form provided by the bureau with the applicant's residential or physical address and the applicant's public contact information;

(ii) one recent color photograph of passport quality which contains the applicant's name written on the back of the photograph, unless the applicant submitted a photo which meets these requirements to the bureau within the previous three years;

(iii) a non-refundable processing fee in the form of cash, check, money order, or credit card; and

(iv) evidence that the instructor has completed the course of instruction provided under the direction of the bureau and passed the certification test provided in Subsection 53-5-704(9)(c), within one year of the date of the application.

~~[(3)]~~2 A renewal packet may be submitted no earlier than 60 days prior to the expiration of a current permit or certification.

~~[(4)]~~3(a) A fee will be collected for renewal packets submitted on a permit or an instructor certification that has been expired for more than ~~[thirty]~~30 days but less than one year.

(b) Renewal packets for a permit or an instructor certification which has been expired for more than one year will not be accepted and the applicant will have to re-apply for a permit or an instructor certification.

~~[(5)]~~4 When renewing a permit or an instructor certification the bureau shall conduct a background investigation.

(~~[6]~~5)(a) If the bureau determines that the applicant meets the requirements to renew a permit or an instructor certification, the bureau shall mail the renewed permit or instructor certification identification card to the applicant.

(b) The renewed permit or instructor certification identification card shall be mailed to the applicant at the address listed on the renewal application.

(~~[7]~~6)(a) If the bureau determines that the applicant does not meet the requirements to renew a permit or an instructor certification, the bureau shall mail a denial letter to the applicant, return receipt requested.

(b) The denial letter shall state the reasons for denial and indicate that the applicant has a right to request a review hearing before the board by filing a petition for review within 60 days as provided in ~~[Section]~~Subsection 53-5-704(16).

R722-300-7. Application for a Temporary Permit to Carry a Concealed Firearm.

(1)(a) In order to obtain a temporary permit an applicant ~~[must]~~shall submit a completed permit application packet to the bureau as provided by R722-300-4.

(b) In addition, the applicant ~~[must]~~shall provide written documentation to establish extenuating circumstances which would justify the need for a temporary permit to carry a concealed firearm.

(2) When reviewing an application for a temporary permit to carry a concealed firearm the bureau shall conduct the same background investigation as provided in R722-300-4.

(3)(a) If the bureau finds that extenuating circumstances exist to justify the need for a temporary permit, the bureau shall issue a temporary permit to the applicant.

(b) The temporary permit shall be mailed to the applicant at the address listed on the application.

(4) If the bureau finds that the applicant is otherwise eligible to receive a permit under Section 53-5-704, the bureau shall request that the applicant surrender the temporary permit prior to the issuance of the permit under Section 53-5-704.

R722-300-8. ~~[Application for a]~~LEOJ ~~[Permit]~~Permits.

(1)(a) In order to obtain ~~[a]~~an LEOJ permit under Section 53-5-711, an applicant ~~[must]~~shall submit a completed permit application packet to the bureau as provided by R722-300-4.

(b) In addition, the applicant ~~[must]~~shall provide written documentation to establish to the satisfaction of the bureau that:

(i) the applicant is a law enforcement official or judge as defined in Section 53-5-711; and

(ii) that the applicant has completed the course of training required by Subsection 53-5-711(2)(b).

(2) When reviewing an application for ~~[a]~~an LEOJ permit the bureau shall conduct the same background investigation as if the individual were seeking a permit.

(3)(a) If the bureau finds that the applicant meets the requirements found in Subsection 53-5-711(2), the bureau shall issue ~~[a]~~an LEOJ permit to the applicant.

(b) The LEOJ permit shall be mailed to the applicant at the address listed on the application.

(4)(a) If the bureau finds that the applicant does not meet the requirements found in Subsection 53-5-711(2), the bureau shall mail a denial letter to the applicant, return receipt requested.

(b) The denial letter shall state the reasons for denial and indicate that the applicant has a right to request a review hearing before the board by filing a petition for review within 60 days as provided in Subsection 53-5-704(16).

~~[~~**R722-300-9. Termination of LEOJ Status.**~~]~~

(~~[+]~~5)(a) When the bureau receives notice that ~~[a]~~an LEOJ permit holder resigns or is terminated from a position as a law enforcement official or judge, the LEOJ permit will be revoked and the bureau shall issue a permit, pursuant to Section 53-5-704, if the former LEOJ permit holder otherwise meets the requirements found in that section.

(~~[2]~~b) If a former LEOJ permit holder gains new employment as a law enforcement official or judge, the bureau shall re-issue ~~[a]~~an LEOJ permit.

~~[R722-300-10.]~~**R722-300-9. Suspension or Revocation of a Permit to Carry a Concealed Firearm, Concealed Firearms Instructor Certification, or ~~[a]~~an LEOJ Permit.**

(1) A permit may be suspended or revoked for any of the following reasons:

(a) the bureau determines that the permit holder does not meet the requirements found in Subsection 53-5-704(2);

(b) the bureau determines that the permit holder has committed a violation under Subsection 53-5-704(3); or

(c) the permit holder knowingly and willfully provided false information on an application for a permit, or a renewal of a permit.

(2) An instructor certification may be suspended or revoked for any of the following reasons:

(a) the bureau determines that the instructor has become ineligible to possess a firearm under Section 76-10-506 or federal law; or

(b) the instructor knowingly and willfully provided false information to the bureau.

(3) ~~[A]~~An LEOJ permit may be suspended or revoked for any of the following reasons:

(a) the bureau determines that ~~[a]~~an LEOJ permit holder is no longer employed as a law enforcement official or judge; or

(b) ~~[a]~~an LEOJ permit holder fails to provide proof of annual requalification by November 30 of each year as required by Section 53-5-711.

(4)(a) If the bureau suspends or revokes a permit, an instructor certification, or ~~[a]~~an LEOJ permit, the bureau shall mail a notice of agency action to the permit holder, instructor, or LEOJ permit holder, return receipt requested~~[;]~~.

(b) The notice of agency action shall state the reasons for suspension or revocation and indicate that the permit holder, instructor, or LEOJ permit holder has a right to request a review hearing before the board by filing a petition for review within 60 days as provided in ~~[Section]~~Subsection 53-5-704(16).

~~[R722-300-11.]~~**R722-300-10. Review Hearing Before the Board.**

(1)(a) Review hearings before the board ~~[will]~~shall be informal and ~~[shall]~~be conducted according to the provisions in Section 63G-4-203.

(b) At the hearing, the bureau ~~[must]~~shall establish the allegations contained in the notice of agency action by a preponderance of the evidence.

(2) Upon request, an applicant, permit holder, instructor, or LEOJ permit holder who is seeking review before the board is entitled to review all the materials in the bureau's file upon which the bureau intends to use in the hearing.

(3) In accordance with Section 63G-4-209 the board may enter an order of default against an applicant, permit holder, instructor, or LEOJ permit holder who fails to appear at the hearing.

(4) Within 30 days of the date of the hearing the board shall issue an order which~~shall~~:

(a) ~~state~~states the board's decision and the reasons for the board's decision; and

(b) ~~indicate~~indicates that the applicant, permit holder, instructor, or LEOJ permit holder has a right to appeal the decision of the board by filing a petition for judicial review within 30 days as provided in Section 63G-4-402.

[R722-300-12.]R722-300-11. Records Access.

(1)(a) Information, except for the name of certified instructors and their public contact information, provided to the bureau by an applicant shall be considered "private" in accordance with Subsection 63G-2-302(2)(d).

(b) The name of certified instructors and their public contact information shall be considered public information.

(2) Information gathered by the bureau and placed in an applicant's file shall be considered "protected" in accordance with ~~Subsections~~Subsection 63G-2-305(9).

(3) When a permit has been issued to an applicant, the names, address, telephone numbers, dates of birth, and Social Security numbers of the applicant are protected records pursuant to Section 53-5-708.

KEY: concealed firearm permits, concealed firearm permit instructors

Date of Enactment or Last Substantive Amendment: [December 10, 2012]2013

Authorizing, and Implemented or Interpreted Law: 53-5-701 through 53-5-711

**Public Safety, Criminal Investigations
and Technical Services, Criminal
Identification**

R722-310

**Regulation of Bail Bond Recovery and
Enforcement Agents**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 37605
FILED: 05/08/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to address statutory changes made in H.B. 386, 2013 General Session,

that allow BCI to issue renewals when no disqualifying information is found, to allow use of photos contained in the BCI database for subsequent applications if the applicant submitted a photo which met requirements within the previous three years, and to address formatting and grammatical changes.

SUMMARY OF THE RULE OR CHANGE: This amendment addresses statutory changes that allow BCI to issue renewals when no disqualifying information is found, adds new language to allow use of photos contained in the BCI database for subsequent applications, if the applicant submitted an acceptable photo within the previous three years, and addresses formatting and grammatical changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 53, Chapter 11

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There is no aggregate anticipated cost or savings to the state budget. This proposed amendment addresses the allowance for BCI to issue renewals when no disqualifying information is found. BCI is already processing these applications, but must submit them to the board for approval. The same process is followed with the exception of issuing the renewal as soon as BCI determines that the applicant is not disqualified.

◆ LOCAL GOVERNMENTS: There is no aggregate anticipated cost or savings to local government. This proposed amendment is procedural in nature, and specific to BCI.

◆ SMALL BUSINESSES: There is no aggregate anticipated cost or savings to small businesses. This proposed amendment is procedural in nature, and specific to BCI.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities. This proposed amendment is procedural in nature, and specific to BCI.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because this proposed amendment is procedural in nature, and specific to BCI.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed amendment in not anticipated to have a fiscal impact on business because the changes are procedural in nature, and specific to BCI.

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

PUBLIC SAFETY
CRIMINAL INVESTIGATIONS AND TECHNICAL
SERVICES, CRIMINAL IDENTIFICATION
3888 W 5400 S
TAYLORSVILLE, UT 84118

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Alice Moffat by phone at 801-965-4939, by FAX at 801-965-4944, or by Internet E-mail at aerickso@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

AUTHORIZED BY: Alice Moffat, Bureau Chief

R722. Public Safety, Criminal Investigations and Technical Services, Criminal Identification.

R722-310. Regulation of Bail Bond Recovery and Enforcement Agents.

R722-310-1. Purpose.

The purpose of the rule is to establish procedures for the licensing of bail enforcement agents, bail bond recovery agencies, bail recovery agents, and bail recovery apprentices.

R722-310-~~1~~2. Authority.

This rule is authorized by Subsection 53-11-103(5).

R722-310-~~2~~3. Definitions.

(1) Terms used in this rule are defined in Section 53-11-102.

(2) In addition:

(a) "act involving moral turpitude" means conduct which:

(i) is done knowingly contrary to justice, honesty, or good morals;

(ii) has an element of falsification or fraud; or

(iii) contains an element of harm or injury directed to another person or another's property;

(b) "bureau" means the Bureau of Criminal Identification within the Department of Public Safety established by Section 53-10-201;~~and~~

(c) "felony" means a crime under the laws of this state, any other state, the United States, or any district, possession, or territory of the United States for which the penalty is a term of imprisonment in excess of one year;

(d) "licensee" means an individual who has received a bail enforcement agent license, bail bond recovery agency license, bail recovery agent license or bail recovery apprentice license;

(e) "revocation" means the permanent deprivation of a bail bond recovery license~~[-Revocation of a bail bond recovery license].~~ however revocation does not preclude an individual from applying for a new bail bond recovery license if the reason for revocation no longer exists; and

(f) "suspension" means the temporary deprivation, for a specified period of time, of a bail bond recovery license.

R722-310-3. Purpose.

The purpose of the rule is to establish procedures for the licensing of bail enforcement agents, bail bond recovery agencies, bail recovery agents, and bail recovery apprentices.

R722-310-4. Application for Licensure.

(1)(a) An applicant seeking to obtain a license as a bail bond agency, bail enforcement agent, bail recovery agent, or a bail recovery apprentice ~~[must]~~shall submit a completed application packet to the bureau.

(b) The application packet shall include:

(i) a written application form provided by the bureau ~~[which shall include]~~with the applicant's residential or physical address and mailing or business address;

(ii) one recent color photograph of passport quality which contains the applicant's name written on the back of the photograph, unless the applicant submitted a photo which meets these requirements to the bureau within the previous three years;

(iii) a photocopy of a state-issued driver license or identification card;

(iv) one completed FBI applicant fingerprint card (Form FD-258) with the applicant's legible fingerprints;

(v) a non-refundable processing fee in the form of cash, check, money order, or credit card in the amount required by Section 53-11-115; and

(vi) documentation from an approved provider indicating that the applicant has completed the ~~[sixteen-]~~16-hour training program, described in ~~[Section]~~Subsection 53-11-108(4).

(2) If the applicant is applying for license as a bail enforcement agent, the applicant must also provide documentation indicating that the applicant has 2,000 hours of experience related to bail bond recovery and enforcement.

(3) If an applicant for license as a bail enforcement agent wishes to operate a bail bond recovery agency, the applicant ~~[must]~~shall also provide:

(~~[i]~~a) the name ~~[and business address for]~~under which the bail bond recovery agency will operate; and

(~~[#]~~b) a certificate of workers' compensation insurance, if applicable.

(4) If the applicant is applying for license as a bail recovery agent, the applicant ~~[must]~~shall also provide:

(~~[i]~~a) documentation indicating that the applicant has 1,000 hours of experience related to bail bond recovery and enforcement~~[-]~~; and

(~~[#]~~b) verification from a bail bond recovery agency indicating that the agency will employ or contract with the applicant.

(5) If the applicant is applying for license as a bail recovery apprentice, the applicant ~~[must]~~shall also provide~~[-]~~:

~~-----~~(~~[i]~~) verification from a bail bond recovery agency indicating that the agency will employ or contract with the applicant.

(6) If the applicant is seeking to carry a firearm as a licensee, the applicant ~~[must]~~shall comply with all of the requirements found in R722-300 and ~~[must]~~provide documentation from an approved bail enforcement firearms instructor indicating that the applicant has completed the ~~[sixteen-]~~16-hour firearms training course required in ~~[Section]~~Subsection 53-11-108(5).

(7)(a) Once the application packet is complete, the bureau shall submit it to the board for their review at the next regularly scheduled meeting.

(b) Application packets that are received or completed less than ~~[7]~~seven days prior to a scheduled board meeting ~~[will]~~may not be considered by the board until the next regularly scheduled board meeting.

R722-310-5. Training Program Requirements.

(1) The ~~sixteen~~16-hour training program described in ~~Section~~Subsection 53-11-108(4), which is required for licensure, ~~must~~shall be provided by a training program provider approved by the board.

(2) Training program providers seeking to become approved by the board ~~must~~shall provide a detailed course curriculum for the board's review.

(3)(a) Training programs which are approved by the board ~~must~~shall be open to anyone who wishes to attend.

(b) If a training provider charges a fee for the training program, the same fee ~~must~~shall apply to all participants in the training program.

(4) Training program providers ~~must~~shall notify the bureau, at least five days in advance, of the dates, times, and location of all courses provided.

(5)(a) Bureau investigators shall periodically monitor approved training programs to ~~insure~~ensure that the training program is providing instruction as required by ~~Section~~Subsection 53-11-108(4).

(b) The training program may not charge ~~the~~an investigator a fee for monitoring the program.

(6) If the board receives information that a training program is not providing instruction as required by ~~Section~~Subsection 53-11-108(4), the board ~~shall~~may terminate its approval of the training program after notice and an opportunity for a hearing before the board.

R722-310-6. Verification of Experience.

(1) When verifying the experience necessary for licensure as a bail enforcement agent or a bail recovery agent, ~~the~~an applicant ~~must~~shall provide a written statement which lists, in detail, the number of hours and the type of bail bond recovery work performed by the applicant.

(2) The verification of experience ~~must~~shall be signed and notarized by the applicant's employer or by an individual who has personal knowledge of the bail bond recovery work performed.

(3) The bail bond recovery work ~~must~~shall have been performed within ten years from the date of the application.

R722-310-7. Credit for Specified Training.

(1) An applicant who wishes to receive credit towards the experience requirement for licensure, ~~must~~shall provide documentation indicating that the applicant has a criminal justice bachelor's degree or has successfully completed a basic training course described in ~~Section~~Subsections 53-11-114(1)(b) or 53-11-114(1)(c).

(2) An applicant may receive up to 1,000 hours of credit towards the experience requirement for licensure under Section 53-11-114.

(3) An applicant seeking credit under Section 53-11-114, is not exempt from completing the ~~sixteen~~16-hour training course required by ~~Section~~Subsection 53-11-108(4).

R722-310-8. Renewal of a License.

(1)(a) A licensee seeking to renew a license as a bail bond agency, bail enforcement agent, bail recovery agent, or a bail recovery apprentice ~~must~~shall submit a completed renewal packet to the bureau.

(b) The renewal packet shall include:

(i) a written renewal form provided by the bureau ~~which shall include~~with the ~~applicant's~~licensee's residential or physical address and mailing or business address;

(ii) one recent color photograph of passport quality which contains the ~~applicant's~~licensee's name written on the back of the photograph, ~~unless the licensee submitted a photo which meets these requirements to the bureau within the previous three years;~~

(iii) a non-refundable processing fee in the form of cash, check, money order, or credit card in the amount required by Section 53-11-115;

(iv) evidence that the ~~applicant~~licensee has completed eight hours of continuing classroom instruction required by Subsection 53-11-111(2); and

(v) evidence that the ~~applicant~~licensee has a \$10,000 surety bond which meets the requirements described in Subsection 53-9-110(3).

(2)(a) Once the renewal packet is complete, the bureau shall review it to determine if the licensee meets the requirements for renewal.

(b) If the bureau determines the licensee does not meet the requirements for renewal, the bureau shall submit [it]the renewal packet to the board for their review at the next regularly scheduled meeting.

(b)c Renewal packets that are received or completed less than ~~7~~seven days prior to a scheduled board meeting ~~will~~may not be considered by the board until the next regularly scheduled board meeting.

(3) A licensee whose license has been expired for more than ~~ninety~~90 days, ~~must~~shall reapply and meet all requirements found in R722-310-4.

R722-310-9. Requirements for Continuing Classroom Instruction.

(1)(a) Four of the eight hours of continuing classroom instruction required by Subsection 53-11-111(2) shall be provided by the bureau.

(b) The course provided by the bureau shall provide updates on Utah law, administrative changes, and other pertinent information designed to enhance the licensee's knowledge of bail recovery.

(2) The remaining four hours of continuing classroom instruction required under Subsection 53-11-111(2) ~~are left to~~may be at the discretion of the licensee.

R722-310-10. Criteria for Certified Bail Enforcement Firearms Instructor.

(1) The ~~sixteen~~16-hour firearms training program described in ~~Section~~Subsection 53-11-108(5), ~~must~~shall be provided by a bail enforcement firearms instructor approved by the bureau.

(2) ~~In order to become an approved~~A bail enforcement firearms instructor~~, the instructor must~~ approved by the bureau shall be a certified Utah concealed firearm permit instructor under ~~Section~~Subsection 53-5-704(8) and ~~must~~be in good standing with the bureau.

(3)(a) Each approved bail enforcement firearms instructor ~~must~~shall adhere to the curriculum adopted by the bureau.

(b) An instructor may supplement, but may not detract from the set curriculum.

R722-310-11. Notice to Commissioner.

A bail bond recovery agency may provide notice of a change in the name or address of a bail bond agency, or any change of employees or contract employees, to the commissioner as required by Subsection 53-11-116(5) by sending a written notice to the bureau that is signed by the licensee.

R722-310-12. Adjudicative Proceedings.

(1) All adjudicative proceedings shall be informal according to the provisions in Sections 63G-4-202 through 63G-4-203.

~~[(2)(a) The board shall review and make an initial determination on all license applications and renewals.]~~

~~[(b)2(a) The board may deny a license application or renewal for failure to comply with the requirements in Sections 53-11-108 through 53-11-115, or for any of the reasons set forth in Section 53-11-118.]~~

~~(b) The bureau may deny a license renewal for failure to comply with the requirements in Sections 53-11-108 through 53-11-115, or for any of the reasons set forth in Section 53-11-118.~~

(3) The board shall review all investigations presented by the bureau and may take disciplinary action against a licensee based on a violation of Section 53-11-119.

(4)(a) The board shall issue a written decision within ten days after the board meets to decide the matter.

(b) The board's written decision shall indicate that the applicant or licensee may appeal to the commissioner within ~~[thirty]~~30 days from the date that the written decision is issued.

(5)(a) If an applicant or licensee appeals the board's decision, the commissioner, or his designee, shall review the materials in the bureau's file, the findings of the board along with any materials submitted by the applicant or licensee, and may affirm, adopt, modify, supplement, reverse, or reject the board's findings, or return the matter to the board for reconsideration.

(b) If the applicant or licensee requests a hearing, the commissioner, or his designee, shall schedule a hearing within ~~[sixty]~~60 days from the receipt of the request for review.

R722-310-13. Identification of Licensees.

(1)(a) A licensee shall be issued an identification card by the bureau which identifies ~~[whether]~~the licensee as a bail enforcement agent, bail bond recovery agency, bail recovery agent or bail recovery apprentice.

(b) The identification card shall indicate on its face if the licensee is authorized to carry a loaded and concealed firearm as provided in Subsection 53-11-108(5).

(2)(a) A bail enforcement agent or bail recovery agent may ~~[wear]~~possess and display a badge that is identical to the badge depicted on the bureau's website in accordance with Section 53-11-121.

(b) A bail enforcement agent or bail recovery agent may obtain a badge from any source, so long as it complies with the following specifications:

(i) the badge ~~[must]~~shall be 2.55 inches high and 2.66 inches wide;

(ii) the badge ~~[must]~~shall be in the shape of a five~~[-]~~point star on a circle;

(iii) the star ~~[must]~~shall be gold in color and the circle must be silver in color;

(iv) the center of the star ~~[must]~~shall be black in color and contain a seal with the phrase "Liberty and Justice For All";

(v) the text of the badge ~~[must]~~shall be written in block lettering and must be black;

(vi) the silver circle ~~[must]~~shall contain two panels with writing to indicate whether the agent is a bail enforcement or bail recovery agent; and

(vii) the badge ~~[must]~~shall contain two gold panels with writing to indicate the word "Utah" on the top panel and the agent's license number on the bottom panel.

~~(3)(a) A bail enforcement agent or bail recovery agent may only display the badge described in this rule if the agent is wearing an item of clothing that identifies whether the agent is a bail enforcement agent or bail recovery agent.~~

~~(b) The item of clothing must~~ The design approved by the board under Subsection 53-11-121(5) shall contain the words "bail enforcement agent" or "bail recovery agent" written on both the chest and back ~~[and must meet the following requirements]~~in writing which is:

~~[(i)a] [the writing on the back must be]~~at least two inches in height on the back;

~~[(ii)b] [the writing on the chest must be]~~at least one half of an inch in height on the front; and

~~[(iii)c] [the writing must be]~~in a color that contrasts with the color of the item of clothing.

KEY: bail bond enforcement agent, bail bond recovery agent, bail bond recovery apprentice, license

Date of Enactment or Last Substantive Amendment: ~~[October 22, 2010]~~2013

Notice of Continuation: May 12, 2010

Authorizing, and Implemented or Interpreted Law: ~~[53-11-103(5)]~~53-11

**Public Safety, Criminal Investigations
and Technical Services, Criminal
Identification
R722-330
Licensing of Private Investigators**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 37604
FILED: 05/08/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this proposed amendment is to allow use of photos contained in the BCI database for subsequent applications (within three years), and to address formatting and grammatical changes.

SUMMARY OF THE RULE OR CHANGE: This proposed amendment allows use of photos contained in the BCI database for subsequent applications (within three years), and addresses formatting and grammatical changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 53-9-101 through 53-9-119

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no aggregate anticipated cost or savings to the state budget because this amendment is procedural in nature, and specific to BCI.
- ◆ **LOCAL GOVERNMENTS:** There is no aggregate anticipated cost or savings to local government because this amendment is procedural in nature, and specific to BCI.
- ◆ **SMALL BUSINESSES:** There is no aggregate anticipated cost or savings to small businesses because this amendment is procedural in nature, and specific to BCI.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this amendment is procedural in nature, and specific to BCI.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons, and may have a potential savings for persons that would have previously been required to submit a new photo with each subsequent application.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses associated with this rule because the proposed amendment is procedural in nature, and specific to BCI.

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

PUBLIC SAFETY
CRIMINAL INVESTIGATIONS AND TECHNICAL
SERVICES, CRIMINAL IDENTIFICATION
3888 W 5400 S
TAYLORSVILLE, UT 84118
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Alice Moffat by phone at 801-965-4939, by FAX at 801-965-4944, or by Internet E-mail at aerickso@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

AUTHORIZED BY: Alice Moffat, Bureau Chief

R722. Public Safety, Criminal Investigations and Technical Services, Criminal Identification.

R722-330. Licensing of Private Investigators.

R722-330-1. Purpose.

The purpose of this rule is to establish procedures for the licensing of private investigator agencies, registrants, and apprentices.

R722-330-2. Authority.

This rule is authorized by Subsection 53-9-103(6) which provides that the commissioner may make rules as necessary to administer the Private Investigator Regulation Act.

R722-330-3. Definitions.

- (1) Terms used in this rule are defined in Section 53-9-102.
- (2) In addition:
 - (a) "act involving moral turpitude" means conduct which:
 - (i) is done knowingly contrary to justice, honesty, or good morals;
 - (ii) has an element of falsification or fraud; or
 - (iii) contains an element of harm or injury directed to another person or another's property;
 - (b) "FBI" means the Federal Bureau of Investigation;
 - (c) "felony" means a crime under the laws of this state, any other state, the United States, or any district, possession, or territory of the United States for which the penalty is a term of imprisonment in excess of one year;
 - (d) "legal resident of this state" means a person who has established a domicile in Utah, as that term is defined in Section 41-1a-202;
 - (e) "license" means a license for a private investigator agency, registrant, or apprentice;
 - (f) "revocation" means the permanent deprivation of a private investigator license, however revocation of a private investigator license does not preclude an individual from applying for a new private investigator license if the reason for revocation no longer exists; and
 - (g) "suspension" means the temporary deprivation, for a specified period of time, of a private investigator license.

R722-330-4. Application for Licensure.

- (1)(a) An applicant seeking to obtain a license ~~must~~ shall submit a completed application packet to the bureau.
- (b) The application packet shall include:
 - (i) a written application form provided by the bureau ~~which shall include~~ with the applicant's residential or physical address, and mailing or business address;
 - (ii) one recent color ~~photographs~~ photograph of passport quality which contains the applicant's name written on the back of the photograph, unless the applicant submitted a photo which meets these requirements to the bureau within the previous three years;
 - (iii) a photocopy of a state-issued driver license or identification card;
 - (iv) one completed FBI applicant fingerprint card (Form FD-258) with the applicant's legible fingerprints; and
 - (v) the non-refundable license and registration fee in the amount indicated in Section 53-9-111 plus the FBI fingerprint processing fee, in the form of cash, check, money order, or credit card.

(2) If an applicant is applying for an agency license, the applicant ~~[must]~~shall also provide:

(a) the name under which the applicant intends to do business;

~~[(b) the applicant's business address;~~

]
(e)~~[b]~~ a completed Verification of Investigative Experience Form which documents that the applicant has performed 10,000 hours of investigative experience as provided in ~~[Section]~~Subsection 53-9-108(3);

(d)~~[c]~~ a certificate of liability insurance for the applicant in an amount of not less than \$500,000 as described in Subsection 53-9-109(3); and

(e)~~[d]~~ a certificate of workers' compensation insurance, if applicable.

(3) If the applicant is applying for a registrant license, the applicant ~~[must]~~shall also provide:

(a) the name of the licensed agency for which the applicant will be an employee or independent contractor;

(b) authorization from a licensed agency indicating that the agency will employ or contract with the applicant;

(c) a completed Verification of Investigative Experience Form which documents that the applicant has performed 2,000 hours of investigative experience as provided in ~~[Section]~~Subsection 53-9-108(3); and

(d) a surety bond for the applicant in an amount of not less than \$10,000 as described in Subsection 53-9-110(3).

(4) If the applicant is applying for ~~[a]~~an apprentice license, the applicant ~~[must]~~shall also provide:

(a) the name of the licensed agency for which the applicant will be an employee or independent contractor;

(b) authorization from a licensed agency indicating that the agency will employ or contract with the applicant; and

(c) a surety bond for the applicant in an amount of not less than \$10,000 as described in Subsection 53-9-110(3).

R722-330-5. Verification of Investigative Experience.

(1)(a) When completing the Verification of Investigative Experience Form ~~[which must be submitted]~~ for an agency or registrant license, the applicant ~~[must]~~shall describe, in detail, the number of hours and the type of investigative work which the applicant performed.

(b) The investigative experience ~~[must]~~shall have been performed within ten years from the date of the application while the applicant was working as a licensed private investigator or an investigator for a governmental entity.

(c)(i) ~~The~~ Verification of Investigative Experience Form ~~[must]~~shall be certified by the private investigator or governmental employer for whom the applicant performed the investigative work.

(d)(ii) If the applicant is unable to provide certification from a private investigator or governmental employer, the applicant may provide certification from the individual for whom the applicant performed the investigative work.

(2) An applicant seeking to receive credit towards the investigative experience requirement for licensure under ~~[Section]~~Subsection 53-9-108(5), ~~[must]~~shall provide written documentation of the degree or certification for which the applicant is seeking credit.

R722-330-6. Issuance of License.

(1)(a) Upon receipt of a completed application packet, the bureau shall conduct a thorough background investigation to determine if the applicant meets the requirements for licensure.

(b) Once the background check is complete, the bureau shall submit the completed application packet to the board for review, unless the application is for an apprentice license.

(c)(i) The bureau shall review all applications for apprentice licenses to determine whether the applicants meet the requirements for licensure.

(d)(ii) If the bureau finds that an applicant for an apprentice license meets the requirements for licensure, the bureau shall issue the apprentice license within ~~[5]~~five days.

(e)(iii) If the bureau finds that an applicant for an apprentice license does not meet the requirements for licensure, the bureau shall submit the application to the board.

(2)(a) The board shall review all application packets submitted by the bureau to determine whether ~~[applicants meet]~~an applicant meets the requirements for licensure.

(b) If the board determines that an applicant meets the requirements for licensure, the board shall direct the bureau to issue the license.

(3) If the background check indicates that an applicant does not meet the qualifications set forth in Subsection 53-9-108(1)(b), the board shall consider any mitigating circumstances submitted by the applicant.

(4)(a) If the board determines that an applicant does not meet the qualifications for licensure the board shall deny the application.

(b) The board shall issue a written denial which states the reasons why the license was denied and indicates that the applicant may request a hearing before the board by filing a written request within ~~[thirty]~~30 calendar days from the date the board's written denial was issued.

(5)(a) If the applicant requests a hearing, the board shall conduct an informal hearing during which the applicant may present evidence and testimony in response to evidence and testimony presented by the bureau.

(b) The board shall issue a written decision, within ~~[+0]~~ten business days of the hearing, which states the reason for the decision and indicates that the decision may be reviewed by the commissioner if the ~~[licensee]~~applicant files a written request for review with the commissioner within 30 calendar days.

(6)(a) If the applicant requests review of the board's decision, the commissioner or his designee shall review the materials in the bureau's file, any materials submitted by the applicant, and the findings of the board.

(b) The commissioner shall issue a written decision, within ~~[calendar]~~30 calendar days from the date of the request for review, which states the reasons for the decision and indicates that the applicant may appeal to the district court by complying with the requirements found in Section 63G-4-402.

R722-330-7. Renewal of a License.

(1)(a) A licensee seeking to renew a license ~~[must]~~shall submit a completed renewal packet to the bureau.

(b) The renewal packet shall include:

(i) a written renewal form provided by the bureau ~~which shall include~~ with the ~~applicant's~~ licensee's residential or physical address and mailing or business address;

(ii) one recent color photograph of passport quality which contains the ~~applicant's~~ licensee's name written on the back of the photograph, unless the licensee submitted a photo which meets these requirements to the bureau within the previous three years; and

(iii) a non-refundable processing fee in the form of cash, check, money order, or credit card in the amount required by Section 53-9-111.

(2) If the licensee has an agency license, the licensee must also provide evidence that the licensee has a valid certificate of:

(a) liability insurance for the licensee in an amount of not less than \$500,000 as described in Subsection 53-9-109(3); and

(b) workers' compensation insurance, if applicable.

(3) If the licensee has a registrant or an apprentice license, the licensee must provide evidence that the licensee has a valid surety bond for the licensee in an amount of not less than \$10,000 as described in Subsection 53-9-110(3).

(4) A licensee whose license has been expired for more than ~~ninety~~ 90 days, ~~must~~ shall reapply and meet all requirements found in R722-330-4.

(5) If the ~~applicant~~ licensee meets the qualifications for renewal the bureau shall renew the license.

(6)(a) If the bureau determines that the ~~applicant~~ licensee does not meet the qualifications for renewal the bureau shall deny the renewal.

(b) The bureau's written denial shall state the reasons why the renewal was denied and indicate that the licensee may request a hearing before the board by filing a written request within 30 calendar days from the date the bureau's written denial was issued.

(7)(a) If the licensee requests review by the board, the board shall conduct an informal hearing during which the licensee may present evidence and testimony in response to evidence and testimony presented by the bureau.

(b) The board shall issue a written decision, within ~~10~~ ten business days of the hearing, which states the reason for the decision, and indicates that the decision may be reviewed by the commissioner if the licensee files a written request for review with the commissioner within 30 calendar days.

(8)(a) If the licensee requests review of the board's decision, the commissioner or his designee shall review the materials in the bureau's file, any materials submitted by the licensee, and the findings of the board.

(b) The commissioner shall issue a written decision, within 30 calendar days from the date of the request for review, which states the reasons for the decision and indicates that the licensee may appeal to the district court by complying with the requirements found in Section 63G-4-402.

R722-330-8. Suspension and Revocation of a License.

(1) The bureau shall conduct an investigation, as provided in Section 53-9-117, if the bureau is made aware of an allegation that a licensee has engaged in conduct in violation of Section 53-9-118.

(2) The bureau shall notify a licensee who is the subject of an investigation of the date and time of the board meeting where the board will consider the bureau's investigative findings.

(3) The board shall conduct an informal hearing during which the licensee may present evidence and testimony in response to the bureau's investigative findings and recommendations.

(4) The board shall issue a written decision, within ~~10~~ ten business days after the hearing, which states the reasons for the board's decision, and indicates that the licensee may appeal to the commissioner by filing a written request within 15 calendar days from the date that the board's written decision was issued.

(5)(a) If the licensee requests review of the board's decision, the commissioner or his designee shall review the materials in the bureau's file, any materials submitted by the licensee, and the findings of the board.

(b) The commissioner shall issue a written decision, within 30 calendar days from the date of the request for review, which states the reasons for the decision and indicates that the licensee may appeal to the district court by complying with the requirements found in Section 63G-4-402.

R722-330-9. Records Access.

(1)(a) Information other than name and mailing or business address supplied to the division by an applicant or licensee, including a completed application or renewal form, shall be considered "private" information in accordance with Subsection 63G-2-302(2)(d).

(b) The names of licensees and their mailing or business address shall be considered public information.

(2)(a) Information gathered by the division in the course of investigating an application or complaint shall be considered "protected" information in accordance with Subsection 63G-2-305(9).

(b) If such information is used as the basis for the denial, suspension, or revocation of a license, the applicant or licensee shall be entitled to access the information.

KEY: private investigators, license

Date of Enactment or Last Substantive Amendment: [~~October 12, 2011~~ 2013]

Notice of Continuation: April 22, 2010

Authorizing, and Implemented or Interpreted Law: 53-9-~~103(6)~~ 101 through 53-9-119

Regents (Board of), Administration

R765-604

New Century Scholarship

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37586

FILED: 05/02/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Legislature passed S.B. 100 in the 2013 General Session changing the required minimum grade point average and number of enrolled credit hours required to qualify for and receive New Century Scholarship awards.

SUMMARY OF THE RULE OR CHANGE: Changes to this rule include raising the minimum grade point average from 3.0 to 3.3 and defining full-time enrollment at fifteen credit hours per semester for applicants to receive and continue receiving a New Century Scholarship award. These changes are effective 07/01/2013.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-8-105

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget. This amendment only affects the grade point average and number of enrolled credit hours for applicants to the scholarship program and therefore, imposes no additional costs or savings to state budgets.
- ◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to any local government. This amendment only affects the grade point average and number of enrolled credit hours for applicants to the scholarship program and therefore, imposes no additional costs or savings to local government.
- ◆ **SMALL BUSINESSES:** There are no anticipated costs or savings to any small business. This amendment only affects the grade point average and number of enrolled credit hours for applicants to the scholarship program and therefore, imposes no additional costs or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to any person. This amendment only affects the grade point average and number of enrolled credit hours for applicants to the scholarship program and therefore, imposes no additional costs or savings to any person.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to any affected person. This amendment only affects the grade point average and number of enrolled credit hours for applicants to the scholarship program and therefore, imposes no compliance costs to individuals applying for and receiving a New Century Scholarship.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change has no fiscal impact on businesses.

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

REGENTS (BOARD OF)
ADMINISTRATION
BOARD OF REGENTS BUILDING, THE GATEWAY
60 SOUTH 400 WEST
SALT LAKE CITY, UT 84101-1284
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Ronell Crossley by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rcrossley@utahsbr.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

AUTHORIZED BY: Dave Buhler, Commissioner of Higher Education

R765. Regents (Board of), Administration.

R765-604. New Century Scholarship.

R765-604-1. Purpose.

To provide policy and procedures for the administration of the New Century Scholarship which was established to encourage students to accelerate their education by earning an associate's degree in high school from an institution within the Utah System of Higher Education.

R765-604-2. References.

2.1. 53B-8-105, Utah Code Annotated 1953

2.2. Regents' Policy and Procedures R609, Regents' Scholarship

R765-604-3. Definitions.

3.1. "Applicant" means a student who is in their last term in high school and on track to complete the high school graduation requirements of a public school established by the Utah State Board of Education and the student's school district or charter school or a private high school in the state that is accredited by a regional accrediting body approved by the Utah State Board of Regents, or a home-school student.

3.2. "Associate's Degree" means an Associate of Arts, Associate of Science, or Associate of Applied Science degree received from, or verified by, a regionally accredited institution within the Utah System of Higher Education. If the institution does not offer the above listed degrees, equivalent academic requirements will suffice under subsection 3.[4]5.2. of this rule.

3.3. "Awards" means New Century Scholarship funds.

3.4. "Board" means the Utah State Board of Regents.

3.5. "Completes the requirements for an associate's degree" means that an applicant completes either of the following:

3.5.1. all the required courses for an associate's degree from an institution within the Utah System of Higher Education that offers associate's degrees; and applies for the associate's degree from the institution; or

3.5.2. all the required courses for an equivalency to the associate's degree from a higher education institution within the Utah System of Higher Education that offers baccalaureate degrees but does not offer associate's degrees.

[— 3.6. "Full-time" means a minimum of twelve credit hours.

] 3.[7]6. "High school" means a public high school established by the Utah State Board of Education or a private high school within the boundaries of the State of Utah. If a private high school, it shall be accredited by a regional accrediting body approved by the Board.

3.[8]7. "High school graduation date" means the day on which the recipient's class graduates from high school. For home-schooled students refer to subsection 4.2.1 of this rule.

3.[9]8. "Home-schooled" refers to a student who has not graduated from a Utah high school and received a high school grade point average (GPA).

3.[10]9. "Math and science curriculum" means the rigorous math and science curriculum developed and approved by the Board which, if completed, qualifies a high school student for an award. Curriculum requirements can be found at the Web site of the Utah System of Higher Education.

3.[11]10. "New Century Scholarship" means a renewable scholarship to be awarded to applicants who complete the eligibility requirements of Section 4 of this rule.

3.[12]11. "Reasonable progress" means enrolling and completing at least ~~twelve~~ fifteen credit hours during fall and spring semesters and earning a 3.[0]3 grade point average or higher each semester. If applicable, applicants attending summer must enroll full-time according to their institution and or program policy regarding full-time status.

3.[13]12. "Recipient" means an applicant who receives an award under the requirements set forth in this rule.

3.[14]13. "Renewal Documents" means a college transcript demonstrating that the recipient has met the required semester grade point average and a detailed schedule providing proof of ~~[full-time]~~ enrollment in fifteen credit hours for the semester which the recipient is seeking award payment.

3.[15]14. "Scholarship Review Committee" means the committee to review New Century Scholarship applications and make final decisions regarding awards.

~~[3.16. "Two years of full-time equivalent enrollment" means the equivalent of four semesters of full-time enrollment (minimum of twelve credit hours per semester).~~

3.[17]15. "The Utah System of Higher Education" means the institutions that comprise Utah's public higher education institutions including the University of Utah, Utah State University, Weber State University, Southern Utah University, Utah Valley University, Dixie State ~~[College of Utah]~~ University, Salt Lake Community College, and Snow College.

R765-604-4. Recipient Requirements.

4.1. General Academic Requirements: Unless an exception applies, to qualify as a recipient a student shall:

4.1.1. complete the requirements for an associate's degree or the math and science curriculum at a regionally accredited institution within the Utah System of Higher Education

4.1.1.1. with at least a 3.0 grade point average

4.1.1.2. by applicant's high school graduation date; and

4.1.2. complete the high school graduation requirements of a Utah high school with at least a 3.5 cumulative grade point average.

4.2. Utah Home-schooled Applicants: For Utah home-schooled applicants the following requirement applies:

4.2.1. If a home-schooled applicant would have completed high school in 2011 or after, the high school graduation date (under subsection 4.1.1.2.) is June 15 of the year the applicant would have completed high school.

4.2.2. ACT Composite Score Requirement: A composite ACT score of 26 or higher is required in place of the high school grade point average requirement (under subsection 4.1.2).

4.3. Mandatory Fall Term Enrollment: A recipient shall enroll ~~[full-time]~~ in and successfully complete fifteen credit hours at an eligible institution by Fall semester immediately following the

student's high school graduation date or receive an approved deferral or leave of absence from the Board under subsection 8.7 of this rule.

4.4. Citizenship Requirement: A recipient shall be a citizen of the United States or a noncitizen who is eligible to receive federal student aid.

4.5. No Criminal Record Requirement: A recipient shall not have a criminal record, with the exception of a misdemeanor traffic citation.

4.6. Regents' Scholarship: A recipient shall not receive both an award and the Regents' Scholarship established in Utah Code Section 53B-8-108.

R765-604-5. Application Procedures.

5.1. Application Contact: Qualifying students shall apply for the award through the Board.

5.2. General procedure: An application for an award shall contain the following:

5.2.1. Application Form: the official application will become available on the New Century Web site each November prior to the February 1 deadline; and

5.2.2. College Transcript: an official college transcript showing college courses, Advanced Placement and transfer work an applicant has completed to meet the requirements for the associate's degree and verification of the date the award was earned; and

5.2.3. High School Transcript: an official high school transcript with high school graduation dated posted (if applicable).

5.2.4. ACT Score: a copy of the student's verified ACT score (if applicable).

5.3. Registrar Verification: If an applicant is enrolled at an institution which does not offer an associate's degree or an institution that will not award the associate's degree until the academic on-campus residency requirement has been met, the registrar must verify that the applicant has completed the equivalent academic requirements under 4.1.1.

5.4. Application Deadline: Applicants shall meet the following deadlines to qualify for an award:

5.4.1. Application Submission: Applicants must submit a scholarship application to the Scholarship Review Committee no later than February 1 of the year of their high school graduation date or the year they would have graduated from high school.

5.4.2. Support Documentation Submission: All necessary support documentation shall be submitted on or before September 1 following the applicant's high school graduation date. In some cases exceptions may be made as Advanced Placement and transfer work verification may be delayed at an institutional level and no fault of the applicant. Scholarship awards may be denied if all documentation is not complete and submitted by the specified deadlines. If any documentation demonstrates that the applicant did not satisfactorily fulfill all coursework and GPA requirements or if any information, including the attestation of criminal record and citizenship status, proves to be falsified, awards may be denied.

5.4.3. Priority Deadline: A priority deadline may be established each year. Applicants who meet the priority deadline may be given first priority of consideration for awards.

5.5. Incomplete Documentation: Applications or other submissions that have missing information or missing documents are considered incomplete, will not be considered, and may result in failure to meet a deadline.

R765-604-6. Awards.

6.1. Value of the Award: The award is up to the amount provided by the law and determined each Spring by the Board based on legislative funding and number of applicants. The total value may change in accordance with subsection 6.2. The award shall be disbursed semester-by-semester over the shortest of the following time periods:

6.1.1. Four semesters of full-time enrollment [~~(minimum of twelve credit hours per semester)~~] in fifteen credit hours.

6.1.2. Sixty credit hours.

6.1.3. Until the student meets the requirements for a baccalaureate degree.

6.2. The Board May Decrease Award: If the appropriation from the Utah Legislature for the scholarship is insufficient to cover the costs associated with the scholarship, the Board may reduce or limit the award.

6.3. Eligible Institutions: An award may be used at either

6.3.1. Public Institution: a four-year institution within the Utah System of Higher Education that offers baccalaureate programs; or

6.3.2. Private Nonprofit Institution: a private not-for-profit higher education four-year institution in the state of Utah accredited by the Northwest Association of Schools and Colleges that offers baccalaureate programs.

6.4. Enrollment at Multiple Institutions: The award may be used at more than one of the eligible institutions within the same semester for the academic year 2010-11. Starting in 2011 when the award goes to a flat rate the award may only be used at the institution from which the student is earning a baccalaureate degree.

6.5. Student Transfer: The award may be transferred to a different eligible institution upon request of the recipient.

6.6. Financial Aid and other Scholarships: With the exception of the Regents' Scholarship (as detailed in subsection 4.6 of this policy) tuition waivers, financial aid, or other scholarships will not affect a recipient's total award amount.

R765-604-7. Disbursement of Award.

7.1. Disbursement Schedule of Award: The award shall be disbursed semester-by-semester over the shortest of the following time periods:

7.1.1. Four semesters of ~~[full-time]~~ enrollment in fifteen credit hours;

7.1.2. Sixty credit hours; or

7.1.3. Until the recipient meets the requirements for a baccalaureate degree.

7.2. Enrollment Documentation: The recipient shall submit to the Scholarship Review Committee a copy of a class schedule verifying that the recipient is enrolled ~~[full-time (twelve or more credit hours)]~~ in fifteen credit hours or more at an eligible institution. Documentation must include the student's name, the semester the recipient will attend, institution that they are attending and the number of credits for which the recipient is enrolled.

7.3. Award Payable to Institution: The award will be made payable to the institution. The institution shall pay over to the recipient any excess award funds not required for tuition payments. Award funds should be used for higher education expenses including tuition, fees, books, supplies, and equipment required for ~~[courses of]~~ instruction.

7.4. Dropped Hours After Award: If a recipient drops credit hours after having received the award which results in enrollment below ~~[full-time]~~ fifteen credit hours the scholarship will be revoked (see 8.1) unless the student needs fewer than ~~[twelve]~~ fifteen credit hours for completion of a degree.

R765-604-8. Continuing Eligibility.

8.1. Reasonable Progress Toward Degree Completion: The Board may cancel a recipient's scholarship if the student fails to[-]:

8.1.1. Maintain 3.~~[0]~~3 GPA: to maintain a 3.~~[0]~~3 ~~[grade point average]~~ GPA or higher for each semester for which the student has received awards. ~~[-If the recipient fails to maintain a 3.0 GPA, or higher, in a single semester the recipient is placed on probation and shall earn a 3.0 GPA, or better, the following semester to maintain eligibility];~~ or

8.1.2. Reasonable Progress: to make reasonable progress (~~[twelve]~~ fifteen credit hours) toward the completion of a baccalaureate degree and submit the documentation by the deadline as described in subsection 8.2. A recipient must apply and receive an approved deferral or leave of absence under subsection 8.7 if he or she will not enroll ~~[full-time]~~ in fifteen credit hours continuously for fall and spring semesters.

8.2. Duty of Student to Report Reasonable Progress: Each semester, the recipient must submit to the Board a copy of his or her grades for verification of grade point average and ~~[completion of the required]~~ has completed a minimum of [twelve]fifteen credit hours each semester[-credit hours]. Recipients will not be paid for the coming semester until the requested documentation has been received. If the recipient at any time fails to maintain a 3.~~[0]~~3 grade point average or higher following probation or fails to enroll and complete ~~[twelve]~~ fifteen credit hours, the scholarship ~~[will]~~ may be revoked. These documents must be submitted by the following dates:

8.2.1. Proof of enrollment for Fall Semester and proof of completion of the previous semester must be submitted by September 30.

8.2.2. Proof of enrollment for Spring Semester and proof of completion of the previous semester must be submitted by February 15.

8.2.3. Proof of enrollment for Summer Semester and proof of completion of the previous semester must be submitted by June 30.

8.2.4. Proof of enrollment if you are attending Brigham Young University during Winter Semester and proof of completion of the previous semester must be submitted by February 15.

8.2.5. Proof of enrollment if you are attending Brigham Young University during Spring Term and proof of completion of the previous semester must be submitted by May 30.

8.2.6. Proof of enrollment if you are attending Brigham Young University during Summer Term and proof of completion of the previous semester or term must be submitted by July 30.

8.3. Probation: If a recipient earns less than a 3.~~[0]~~3 ~~[grade point average]~~ GPA in any single semester, the recipient must earn a 3.~~[0]~~3 ~~[grade point average]~~ GPA or better the following semester to maintain eligibility for the scholarship. If the recipient again at any time earns less than a 3.~~[0]~~3 ~~[grade point average]~~ GPA the scholarship will be revoked.

8.4. Final Semester: A recipient will not be required to enroll ~~[full-time]~~ in fifteen credit hours if the recipient can complete the degree program with fewer credits.

8.5. No Awards After Five Years: The Board will not make an award to a recipient for an academic term that begins more than five years after the recipient's high school graduation date.

8.6. No Guarantee of Degree Completion: An award does not guarantee that the recipient will complete his or her baccalaureate program within the recipient's scholarship eligibility period.

8.7. Deferral or Leave of Absence.

8.7.1. A recipient shall apply to the Board for a deferral of award or a leave of absence if they do not continuously enroll [~~full-time~~] in fifteen credit hours.

8.7.2. A deferral or leave of absence will not extend the time limits of the scholarship under subsection 8.5.

8.7.3. Deferrals or leaves of absence may be granted, at the discretion of the Board, for military service, humanitarian/religious service, documented medical reasons, and other exigent reasons.

R765-604-9. Appeals.

9.1. Scholarship Determinations: Submission of a scholarship application does not guarantee a scholarship award. Individual scholarship applications will be reviewed, and award decisions made, at the discretion of a Scholarship Review Committee. Awards are based on available funding, applicant pool, and applicants' completion of scholarship criteria. Each applicant will receive a letter informing the applicant of the decision on his/her application.

9.2. Appeals: Applicants and recipients have the right to appeal an adverse decision.

9.2.1. Appeals shall be postmarked within 30 days of date of notification by submitting a completed Appeal Application found on the program Web site.

9.2.2. An appeal filed before the applicant/recipient receives official notification from the Scholarship Review Committee regarding their application, will not be considered.

9.2.3. The appeal shall provide evidence that an adverse decision was made in error, such as that in fact, the applicant/recipient met all scholarship requirements and submitted all requested documentation by the deadline.

9.2.4. Appeals are not accepted for late document submission.

9.2.5. A submission of an appeal does not guarantee a reversal of the original decision.

9.2.6. It is the applicant/recipient's responsibility to file the appeal, including all supplementary documentation. All documents shall be mailed to the New Century Scholarship address.

9.2.7. Appeals will be reviewed and decided by an appeals committee appointed by the commissioner of higher education.

KEY: higher education, secondary education, scholarships

Date of Enactment or Last Substantive Amendment: [~~July 9, 2012~~]2013

Notice of Continuation: December 21, 2009

Authorizing, and Implemented or Interpreted Law: 53B-8-105

Regents (Board of), Administration
R765-609
Regents' Scholarship

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37587

FILED: 05/02/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah State Legislature passed S.B. 100 in the 2013 General Session changing requirements to the minimum grade point average and number of enrolled credits for students to qualify for and receive Regents' Scholarships.

SUMMARY OF THE RULE OR CHANGE: This amendment changes the minimum required grade point average from 3.0 to 3.3 for a student to continue receiving scholarship funds each semester. Also, the definition of full time enrollment as twelve credit hours is removed and replaced with the requirement that scholarship recipients enroll for and complete fifteen credit hours each semester. In addition to Advanced Placement and college course concurrent enrollment for high school students, the International Baccalaureate designation is added to section 9.5 to determine weighted grades for determination of the necessary courses for scholarship eligibility.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-8-108 and Section R277-700-6

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** None--This rule change has no anticipated costs or savings to state budgets as no evaluation is made to the number of qualifying applicants each year. These changes are made without connection to annual appropriations for this scholarship budget item. There was no adjustment to state budgets for appropriation to this scholarship as a result of the law initiating this rule amendment.

◆ **LOCAL GOVERNMENTS:** None--This rule and this amendment has no associated cost or savings to local government as it does not pertain to local governments at all; only college students.

◆ **SMALL BUSINESSES:** None--No aspect of this rule affects small businesses; only college students. Therefore, there are no anticipated costs or savings for small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--Neither costs nor savings to persons other than small businesses, businesses, or local government entities is determined. This rule change only applies to students who apply for, and qualify for the Regents' Scholarship and their eligibility for such funds. There are no anticipated costs or savings for such persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this rule for any affected person since this rule change and the program it covers does not involve costs to any individual.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has no fiscal impact on businesses.

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

REGENTS (BOARD OF)
ADMINISTRATION
BOARD OF REGENTS BUILDING, THE GATEWAY
60 SOUTH 400 WEST
SALT LAKE CITY, UT 84101-1284
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Ronell Crossley by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rcrossley@utahsbr.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/01/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/08/2013

AUTHORIZED BY: Dave Buhler, Commissioner of Higher Education

R765. Regents (Board of), Administration.

R765-609. Regents' Scholarship.

R765-609-1. Purpose.

The Regents' Scholarship encourages Utah high school students to prepare for college academically and financially by taking a core course of study in grades 9-12 and saving for college. This statewide scholarship is aligned with the Utah Scholars Core Course of Study which is based on national recommendations as outlined by the State Scholars Initiative. The courses required by the scholarship are proven to help students become college and career ready. In addition, this scholarship encourages high school students to complete meaningful course work through their senior year.

R765-609-2. References.

2.1. Utah Code Ann. Section 53B-8-108 et seq., Regents' Scholarship Program.

2.2. Utah Admin. Code Section R277-700-6, High School Requirements (Effective for graduating students beginning with the 2010-2011 School Year).

2.3. Regents' Policy and Procedures R604, New Century Scholarship.

R765-609-3. Definitions.

3.1. "Applicant" means a student who is in their last term in high school and on track to complete the high school graduation requirements of a public school established by the Utah State Board of Education and the student's school district or charter school or a private high school in the state that is accredited by a regional accrediting body approved by the Utah State Board of Regents.

3.2. "Base award" means a one-time scholarship to be awarded to applicants who complete the eligibility requirements of section 4.1 of this policy.

3.3. "Board" means the Utah State Board of Regents.

3.4. "Core Course of Study" means the Utah Scholars Core Course of Study taken during grades 9-12, which includes:

3.4.1. 4.0 credits of English;

3.4.2. 4.0 credits of mathematics taken in a progressive manner (at minimum Algebra I, Geometry, Algebra II, and a class beyond Algebra II or Math 3);

3.4.3. 3.5 credits of social studies;

3.4.4. 3.0 credits of lab-based natural science (one each of Biology, Chemistry, and Physics); and

3.4.5. 2.0 credits of the same world or classical language, other than English, taken in a progressive manner.

3.5. "Eligible Institutions" means USHE, or at any private, nonprofit institution of higher education in Utah accredited by the Northwest Association of Schools and Colleges.

3.6. "Exemplary Academic Achievement award" means a renewable scholarship to be awarded to students who complete the eligibility requirements of section 4.2 of this policy.

~~3.7. "Full-time" means a minimum of twelve college credit hours.~~

3.[8]7. "High school" means a public school established by the Utah State Board of Education or private high school within the boundaries of the State of Utah. If a private high school, it shall be accredited by a regional accrediting body approved by the Board.

3.[9]8. "Home-schooled" refers to a student who has not graduated from a Utah high school and received letter grades for the Core Course of Study in grades 9-12.

3.[10]9. "Recipient" means an ~~student~~ applicant who receives an award under the requirements set forth in this policy.

3.[11]10. "Regents' Diploma Endorsement" means a certificate or transcript notation that may be awarded to students who qualify for the Exemplary Academic Achievement award of the Regents' Scholarship.

3.[12]11. "Reasonable progress" means enrolling and completing at least ~~twelve~~ fifteen credit hours during Fall and Spring semesters and earning a 3.[0]3 ~~grade point average (GPA)~~ or higher each semester.

3.[13]12. "Renewal Documents" means a college transcript demonstrating that the recipient has met the required semester GPA and a detailed schedule providing proof of ~~full-time~~ enrollment in fifteen credit hours for the semester which the recipient is seeking award payment.

3.[14]13. "Scholarship Review Committee" means the committee approved to review Regents' Scholarship applications and make final decisions regarding awards.

3.[15]14. "Two years of full-time equivalent enrollment" means the equivalent of four semesters of full-time enrollment (minimum of twelve credit hours per semester).

3.[16]15. "UESP" means the Utah Educational Savings Plan.

3.[17]16. "USHE" means the Utah System of Higher Education, which includes the University of Utah, Utah State University, Weber State University, Southern Utah University, Snow College, Dixie State ~~College of Utah~~ University, Utah Valley University, and Salt Lake Community College.

R765-609-4. Conditions of the Regents' Scholarship Program and Program Terms.

4.1. Base Award: To qualify for the Regents' Scholarship Base award, the applicant shall satisfy the following criteria:

4.1.1. Complete the Core Course of Study as defined in section 3.4 of this policy.

4.1.2. GPA: The applicant shall demonstrate completion of the Core Course of Study with a cumulative high school GPA of at least 3.0.

4.1.3. Minimum Grade requirement: the applicant shall have no individual core course grade lower than a "C" on a transcript. Certain courses may receive a weighted grade as outlined under subsection 9.5 of this policy.

4.1.4. ACT Score: The applicant shall submit at least one verified ACT score.

4.1.5. Utah High School Graduation: The applicant shall have graduated from a Utah high school.

4.1.6. Citizenship Requirement: A recipient shall be a citizen of the United States or a noncitizen who is eligible to receive federal student aid.

4.1.7. No Criminal Record Requirement: A recipient shall not have a criminal record; with the exception of a misdemeanor traffic citation.

4.1.8. Mandatory Fall Term Enrollment: A recipient shall enroll ~~full-time~~ in fifteen credit hours at an eligible institution by Fall semester immediately following the student's high school graduation date or receive an approved deferral from the Board under subsection 7.2.

4.1.9. New Century Scholarship: A recipient shall not receive a Regents' Scholarship and the New Century Scholarship established in Utah Code Section 53B-8-105 and administered in R604.

4.2. Exemplary Academic Achievement award: To qualify for the Regents' Scholarship Exemplary Academic Achievement award, the applicant shall satisfy all requirements for the Base award, and additionally meet all of the following requirements:

4.2.1. Required GPA: The applicant shall have a cumulative high school GPA of at least 3.5.

4.2.2. Minimum Grade requirement: the applicant ~~shall have no individual core course grade lower than a "B" on a transcript~~ earns a course grade on a transcript of "B" or above in each individual course listed in Utah Code 53B-8-109(1)(d)(i). Certain courses may receive a weighted grade as outlined under subsection 9.5 of this policy.

4.2.3 Required ACT Score: The applicant shall submit a verified composite ACT score of at least 26.

4.2.4. Duty of Student to Report Reasonable Progress Toward Degree Completion: In order to renew the Exemplary Academic Achievement Award, the recipient shall submit renewal documents^[.] providing evidence of reasonable progress toward degree completion.

4.2.4.1. If the recipient fails to maintain a 3.~~[0]~~3 GPA in a single semester the recipient is placed on probation and shall earn a 3.~~[0]~~3 GPA or better the following semester to maintain eligibility. If the recipient again at any time earns less than a 3.~~[0]~~3 GPA or fails to enroll and complete ~~twelve~~ fifteen credit hours, except as outlined in section 7.2 of this policy, the scholarship ~~will~~ may be revoked.

4.2.4.2. Each semester, the recipient shall submit renewal documents to the Scholarship Review Committee providing evidence of making reasonable progress, by the deadlines listed below:

4.2.4.2.1. For Fall semester renewal documents shall be submitted by September 30.

4.2.4.2.2. For Spring/Winter semester renewal documents shall be submitted by February 15.

4.2.4.2.3. For Summer semester renewal documents shall be submitted by June 30.

4.2.4.2.4. If the recipient is attending Brigham Young University during Spring term renewal documents shall be submitted by May 30.

4.2.5. A recipient will not be required to enroll ~~full-time~~ in fifteen credit hours if the student can complete his/her degree program with fewer credits.

4.3. Replacing Low Grades by Retaking a Course: An applicant may retake a course to replace a low grade received. When retaking courses to replace a grade the following subsections apply:

4.3.1. The Entire Course: The applicant shall either (1) retake the entire original course, or (2) complete an approved course equal to or greater in credit value in the same subject-area. The math and foreign language requirement of progression shall be shown. This is true even if the applicant only received a lower grade in a single semester, term, trimester, or quarter.

4.3.2. The Higher of Two Grades: The higher of two grades in the same or an approved course will count towards meeting the scholarship requirements.

4.3.3. Approved Courses and Progression Determined by the Regents' Scholarship Review Committee: The Regents' Scholarship Review Committee reserves the right to determine if the repeated course qualifies as an approved course in the same subject-area and if progression is required and demonstrated.

4.4. Student Transfer: A scholarship may be transferred to a different eligible institution upon request of the student.

4.5. "P" and "I" Grades not Accepted: Pass/fail or incomplete grades do not meet the minimum grade requirement, nor do they qualify toward the scholarship renewal requirements.

R765-609-5. Application Procedures.

5.1. Application Deadline: Applicants shall submit a scholarship application to the Scholarship Review Committee no later than February 1 of the year that they graduate from high school. A priority deadline may be established each year. Applicants who meet the priority deadline may be given first priority or consideration for the scholarship.

5.2. Required Documentation: Scholarship awards may be denied if all documentation is not complete and submitted by the specified deadlines. If any documentation demonstrates that the applicant did not satisfactorily fulfill all course and GPA requirements, or if any information, including the attestation of criminal record or citizenship status, proves to be falsified the scholarship award may be denied. Required documents that shall be submitted with a scholarship application include:

5.2.1. the official online application;

5.2.2. an official high school paper or electronic transcript, official college transcript(s) when applicable, and any other miscellaneous transcripts demonstrating all completed courses and

GPA. A final transcript showing the last semester of coursework will be requested if the student is found conditionally approved, meaning that the student appears to be on track to receive the scholarship;

5.2.3. verified ACT score(s); and

5.2.4. a class schedule form, provided by the Board, demonstrating the courses and credits that the student will complete during grade twelve. Simply submitting a high school transcript does not satisfy this requirement.

5.3. Incomplete Documentation: Applications or other submissions that have missing information or missing documents are considered incomplete, and will not be reviewed.

R765-609-6. Amount of Awards and Distribution of Award Funds.

6.1. Funding Constraints of Awards: The Board may limit or reduce the Base award and/or the Exemplary Academic Achievement award, as well as supplemental awards granted, depending on the annual legislative appropriations and the number of qualified applicants.

6.2. Amount of Awards.

6.2.1. Base Award: The Base award of up to \$1,000 may be adjusted annually by the Board in an amount up to the average percentage tuition increase approved by the Board for USHE institutions.

6.2.2. Exemplary Academic Achievement Award: The Exemplary Academic Achievement award is up to the amount provided by law and as determined each spring by the Board based on legislative funding and the number of applicants. The Exemplary Academic Achievement award may be renewed for the shortest of the following:

6.2.2.1. Four semesters of [~~full-time~~]enrollment [~~(minimum of twelve credit hours per semester)~~]in fifteen credit hours;

6.2.2.2. Sixty-five credit hours; or

6.2.2.3. Until the student meets the requirements for a baccalaureate degree.

6.3. Distribution of Award Funds.

6.3.1. Enrollment Documentation: The award recipient shall submit to the Scholarship Review Committee a copy of the college class schedule verifying that the recipient is enrolled [~~full-time (twelve or more credits)~~]in fifteen credit hours or more at an eligible institution. Documentation shall include the recipient's name, the semester the recipient will attend, the name of the institution they are attending and the number of credits for which the recipient is enrolled.

6.3.2. Award Payable to Institution: The award will be made payable to the institution. The institution may pay over to the recipient any excess award funds not required for tuition payments. Award funds shall be used for any qualifying higher education expense including: tuition, fees, books, supplies, equipment required for course instruction, or housing.

6.3.3. Credit Hours Dropped After Award Payment: If a recipient drops credit hours after having received the award which results in enrollment below [~~twelve~~]fifteen credit hours, the scholarship will be revoked.

6.4. UESP Supplemental Award to Encourage College Savings: Subject to available funding, an applicant who qualifies for the Base award is eligible to receive up to an additional \$400 in state funds to be added to the total scholarship award.

6.4.1. For each year the applicant is 14, 15, 16, or 17 years of age and had an active UESP account, the Board may contribute, subject to available funding, \$100 (i.e., up to \$400 total for all four

years) to the recipient's award if at least \$100 was deposited into the account for which the applicant is named the beneficiary.

6.4.2. If no contributions are made to an applicant's UESP account during a given year, the matching amount will likewise be \$0.

6.4.3. If contributions total more than \$100 in a given year, the matching amount will cap at \$100 for that year.

6.4.4. Matching funds apply only to contributions, not to transfers, earnings, or interest.

R765-609-7. Time Constraints and Continuing Eligibility.

7.1. Time Limitation: A Regents' Scholarship recipient shall use the award in its entirety within five years after his/her high school graduation date.

7.2. Deferral or Leave of Absence: A recipient shall apply for a deferral or leave of absence if they do not continuously enroll [~~full-time~~]in fifteen credit hours.

7.2.1. Deferrals or leaves of absence may be granted, at the discretion of the Scholarship Review Committee, for military service, humanitarian/religious service, documented medical reasons, and other exigent reasons.

7.2.2. An approved deferral or leave of absence will not extend the time limits of the scholarship. The scholarship may only be used for academic terms which begin within five years after the recipient's high school graduation date.

7.3. No Guarantee of Degree Completion: Neither a Base award nor an Exemplary Academic Achievement award guarantees that the recipient will complete his or her associate or baccalaureate program within the recipient's scholarship eligibility period.

R765-609-8. Scholarship Determinations and Appeals.

8.1. Scholarship Determinations: Submission of a scholarship application does not guarantee a scholarship award. Individual scholarship applications will be reviewed, and award decisions made, at the discretion of a Scholarship Review Committee. Awards are based on available funding, applicant pool, and applicants' completion of scholarship criteria. Each applicant will receive a letter informing the applicant of the decision on his/her application.

8.2. Appeals: Applicants and recipients have the right to appeal an adverse decision.

8.2.1. Appeals shall be (postmarked) within 30 days of date of notification by submitting a completed Appeal Application found on the program Web site.

8.2.2. An appeal filed before the applicant/recipient receives official notification from the Scholarship Review Committee regarding their application, will not be considered.

8.2.3. The appeal shall provide evidence that an adverse decision was made in error, such as that in fact, the applicant/recipient met all scholarship requirements and submitted all requested documentation by the deadline.

8.2.4. Appeals are not accepted for late document submission.

8.2.5. A submission of an appeal does not guarantee a reversal of the original decision.

8.2.6. It is the applicant/recipient's responsibility to file the appeal, including all supplementary documentation. All documents shall be mailed to the Regents' Scholarship address.

8.2.7. Appeals will be reviewed and decided by an appeals committee appointed by the Commissioner of Higher Education.

R765-609-9. Rules for Completing Course Work.

9.1. Although a course may meet state and individual district high school graduation requirements, the course may not meet the scholarship requirements. If a required course is not taught at the school the student attends they can elect to enroll in the Utah Electronic High School, distance education concurrent enrollment, or a course offered at another accredited Utah high school or college. Course work found at additional online sources shall be from an accredited institution approved by the Board.

9.2. Applicants are required to complete the entire curriculum for a course. For example, if a course is designed to be taken as a full year or for one full credit, the student shall complete the entire course in order to have it count toward the completion of a requirement for the scholarship.

9.3. Course work that is "tested out" of is not accepted for the Regents' Scholarship.

9.4. In each content area, the courses completed shall be unique.

9.4.1. Students cannot take a standard course and then enroll in the honors version of the same class and count both toward meeting the credit requirement and, in cases, the requirement of progression.

9.4.2. Repeated course work does not count toward the credit fulfillment.

9.5. Weighted Grade: The grade earned in any course designated on the student's high school transcript as Advanced Placement (AP) International Baccalaureate (IB), or a college course concurrent enrollment shall be weighted (only if a college transcript is provided) according to the Scholarship Review Committee's standard procedures.

9.6. College Course Work: The Scholarship Review Committee reserves the right to apply a 3:1 ratio in relation to college course work. If an applicant enrolls in and completes a college course worth three or more college credits, this may be counted as one full credit toward the scholarship requirements. However, the student then is evaluated on the college grade earned, with the weight[s] added to the college grade earned.

KEY: higher education, scholarships, secondary education

Date of Enactment or Last Substantive Amendment: ~~July 11, 2011~~ 2013

Authorizing, and Implemented or Interpreted Law: 53B-8-108

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive public comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period, and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends July 1, 2013.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [~~example~~]). A row of dots in the text between paragraphs (.) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Division of Administrative Rules will include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

From the end of the 30-day waiting period through September 29, 2013, an agency may notify the Division of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective 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. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303; Rule R15-2; and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page

Environmental Quality, Air Quality
R307-401-19
 Analysis of Alternatives

NOTICE OF CHANGE IN PROPOSED RULE
 DAR FILE NO.: 37268
 FILED: 05/02/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was proposed by the Air Quality Board as part of a package that included six other rule changes. After the public comment period, two of those proposed rules, Section R307-403-2 (DAR No. 37264) and Rule R307-420 (DAR No. 37265), are undergoing substantive changes and cannot be made effective until 07/01/2013. There are no changes being made to the proposed rule; however, in order for this rule to have the same effective date as the two rules that are being changed, the Division of Air Quality is filing a change in proposed rule (CPR) for this rule. (DAR NOTE: The CPR for Section R307-403-2 is under DAR No. 37264 and the CPR for Rule R307-420 is under DAR No. 37265 in this issue, June 1, 2013, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: There are no changes being made to the proposed rule. This filing is being done so that this rule can be made effective on the same date as Section R307-403-2 (DAR No. 37264) and Rule R307-420 (DAR No. 37265). (DAR NOTE: This CPR has been filed to extend the time frame for the proposed amendment for this rule that was published in the March 1, 2013, issue of the Utah State Bulletin, on page 36.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-108 and Subsection 19-2-104(3) (q)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no changes being made; therefore, there are no anticipated costs or savings.
- ◆ **LOCAL GOVERNMENTS:** There are no changes being made; therefore, there are no anticipated costs or savings.
- ◆ **SMALL BUSINESSES:** There are no changes being made; therefore, there are no anticipated costs or savings.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no changes being made; therefore, there are no anticipated costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no changes being made; therefore, there are no anticipated compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no changes being made; therefore, there will be no fiscal impact on businesses.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2013

AUTHORIZED BY: Bryce Bird, Director

DAR NOTE: No change has been proposed; see the reason under the "Reason for the Change" in the rule analysis above. To view the amended text, see the proposed amendment that was published in the March 1, 2013, issue of the Utah State Bulletin, on page 36.

Environmental Quality, Air Quality
R307-401-20
 Relaxation of Limitations

NOTICE OF CHANGE IN PROPOSED RULE
 DAR FILE NO.: 37269
 FILED: 05/02/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was proposed by the Air Quality Board as part of a package that included six other rule changes. After the public comment period, two of those proposed rules, Section R307-403-2 (DAR No. 37264) and Rule R307-420 (DAR No. 37265), are undergoing substantive changes and cannot be made effective until 07/01/2013. There are no changes being proposed to this rule; however, in order for this rule to have the same effective date as the two rules that are being changed, the Division of Air Quality is filing a change in proposed rule (CPR) for this rule. (DAR NOTE: The CPR for Section R307-403-2 is under DAR No. 37264 and the CPR for Rule R307-420 is under DAR No. 37265 in this issue, June 1, 2013, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: There are no changes being made to the proposed rule. This filing is being done so that this rule can be made effective on the same date as Section R307-403-2 (DAR No. 37264) and Rule R307-420 (DAR No. 37265). (DAR NOTE: This CPR has been filed to extend the time frame for the proposed amendment for this rule that was published in the March 1, 2013, issue of the Utah State Bulletin, on page 36.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-108 and Subsection 19-2-104(3) (q)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no changes being made; therefore, there are no anticipated costs or savings.
- ◆ **LOCAL GOVERNMENTS:** There are no changes being made; therefore, there are no anticipated costs or savings.
- ◆ **SMALL BUSINESSES:** There are no changes being made; therefore, there are no anticipated costs or savings.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no changes being made; therefore, there are no anticipated costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no changes being made; therefore, there are no anticipated compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no changes being made; therefore, there will be no fiscal impact on businesses.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2013

AUTHORIZED BY: Bryce Bird, Director

DAR NOTE: No change has been proposed; see the reason under the "Reason for the Change" in the rule analysis above. To view the amended text, see the proposed amendment that was published in the March 1, 2013, issue of the Utah State Bulletin, on page 36.

Environmental Quality, Air Quality **R307-403-1** Purpose and Definitions

NOTICE OF CHANGE IN PROPOSED RULE
 DAR FILE NO.: 37263
 FILED: 05/02/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was proposed by the Air Quality Board as part of a package that included six other rule changes. After the public comment period, two of those proposed rules, Section R307-403-2 (DAR No. 37264) and Rule R307-420 (DAR No. 37265), are undergoing substantive changes and cannot be made effective until 07/01/2013. There are no changes being proposed to this rule; however, in order for this rule to have the same effective date as the two rules that are being changed, the Division of Air Quality is filing a change in proposed rule (CPR) for this rule. (DAR NOTE: The CPR for Section R307-403-2 is under DAR No. 37264 and the CPR for Rule R307-420 is under DAR No. 37265 in this issue, June 1, 2013, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: There are no changes being made to the proposed rule. This filing is being done so that this rule can be made effective on the same date as Section R307-403-2 (DAR No. 37264) and Rule R307-420 (DAR No. 37265). (DAR NOTE: This CPR has been filed to extend the time frame for the proposed amendment for this rule that was published in the March 1, 2013, issue of the Utah State Bulletin, on page 37.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104 and Section 19-2-108

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no changes being made; therefore, there are no anticipated costs or savings.
- ◆ **LOCAL GOVERNMENTS:** There are no changes being made; therefore, there are no anticipated costs or savings.
- ◆ **SMALL BUSINESSES:** There are no changes being made; therefore, there are no anticipated costs or savings.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no changes being made; therefore, there are no anticipated costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no changes being made; therefore, there are no anticipated compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no changes being made; therefore, there will be no fiscal impact on businesses.

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

ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2013

AUTHORIZED BY: Bryce Bird, Director

DAR NOTE: No change has been proposed; see the reason under the "Reason for the Change" in the rule analysis above. To view the amended text, see the proposed amendment that was published in the March 1, 2013, issue of the Utah State Bulletin, on page 37.

Environmental Quality, Air Quality **R307-403-2** Applicability

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 37264
FILED: 05/02/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed additional reference of Subsection R307-403-2(4) created duplicate provisions within the Air Quality Rules. The list of sources that is contained in the definition of "major sources" is unnecessary here. This also affected the proposed changes to Subsection R307-420-3(3) in DAR No. 37265. (DAR NOTE: The change in proposed rule (CPR) for Rule R307-420 is under DAR No. 37265 in this issue, June 1, 2013, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The provisions of Subsections R307-403-2(4)(a) through (aa) are removed from the proposed rule. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the March 1, 2013, issue of the Utah State Bulletin, on page 39. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104 and Section 19-2-108

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** Because the provisions being removed were duplicate provisions, there are no anticipated costs or savings to the state budget.

♦ **LOCAL GOVERNMENTS:** Because the provisions being removed were duplicate provisions, there are no anticipated costs or savings to local government.

♦ **SMALL BUSINESSES:** Because the provisions being removed were duplicate provisions, there are no anticipated costs or savings to small business.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because the provisions being removed were duplicate provisions, there are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons associated with this change in proposed rule as we are merely removing duplicate provisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on business as a result of this change in proposed rule as we are merely removing duplicate provisions.

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

ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2013

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-403. Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas.

R307-403-2. Applicability.

(1) R307-403 applies to any new major stationary source or major modification that is major for the pollutant for which the area is designated nonattainment under section 107(d)(1)(A)(i) of the Clean Air Act, if the stationary source or modification would locate anywhere in the designated nonattainment area.

(a) Except as otherwise provided in paragraph R307-403-2(2), and consistent with the definition of major modification contained in 40 CFR 51.165(a)(1)(v)(A), a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases—a significant emissions increase (as defined in 40 CFR 51.165(a)(1)(xxvii)), and a significant net emissions increase (as defined in 40 CFR 51.165(a)(1)(vi) and (x)). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

(b) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type of emissions units being modified, according to paragraphs R307-403-2(c) through (e). The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is contained in the definition in 40 CFR 51.165(a)(1)(vi). Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(c) Actual-to-projected-actual applicability test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in 40 CFR 51.165(a)(1)(xxviii)) and the baseline actual emissions (as defined in 40 CFR 51.165(a)(1)(xxxv) (A) and (B), as applicable), for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in 40 CFR 51.165(a)(1)(x)).

(d) Actual-to-potential test for projects that only involve construction of a new emissions unit(s). A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined in 40 CFR 51.165(a)(1)(iii)) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in 40 CFR 51.165(a)(1)(xxxv)(C)) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in 40 CFR 51.165(a)(1)(x)).

(e) Reserved.

(f) Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in R307-403-2(1)(c) through (d) as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in 40 CFR 51.165(a)(1)(x)).

(2) For any major stationary source for a PAL for a regulated NSR pollutant, the major stationary source shall comply with requirements under R307-403-11.

(3) Reserved.

(4) ~~[R307-403 does not apply to any source or modification that would be a major source or major modification only if fugitive emissions to the extent quantifiable are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the categories listed in R307-403-2(4)(a) through (aa).~~

- ~~(a) Coal cleaning plants (with thermal dryers);~~
- ~~(b) Kraft pulp mills;~~
- ~~(c) Portland cement plants;~~
- ~~(d) Primary zinc smelters;~~
- ~~(e) Iron and steel mills;~~
- ~~(f) Primary aluminum ore reduction plants;~~
- ~~(g) Primary copper smelters;~~
- ~~(h) Municipal incinerators capable of charging more than 250 tons of refuse per day;~~
- ~~(i) Hydrofluoric, sulfuric, or citric acid plants;~~
- ~~(j) Petroleum refineries;~~
- ~~(k) Lime plants;~~
- ~~(l) Phosphate rock processing plants;~~
- ~~(m) Coke oven batteries;~~
- ~~(n) Sulfur recovery plants;~~
- ~~(o) Carbon black plants (furnace process);~~
- ~~(p) Primary lead smelters;~~
- ~~(q) Fuel conversion plants;~~
- ~~(r) Sintering plants;~~
- ~~(s) Secondary metal production plants;~~
- ~~(t) Chemical process plants. The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;~~
- ~~(u) Fossil fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;~~
- ~~(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;~~
- ~~(w) Taconite ore processing plants;~~
- ~~(x) Glass fiber processing plants;~~
- ~~(y) Charcoal production plants;~~
- ~~(z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;~~
- ~~(aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.]Reserved.~~

(5)(a) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provision of the state implementation plan and any other requirements under local, state or federal law.

(b) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforcement limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of ~~[regulations approved pursuant to this section]~~R307-403 shall apply to the source or modification as though construction had not yet commenced on the source or modification;

(6) The provisions of R307-403-2(6)(a) through (f) apply to projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in paragraphs 40 CFR 51.165(a)(1)(xxviii)(B)(1) through (3) for calculating projected actual emissions.

(a) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

(i) A description of the project;
 (ii) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and
 (iii) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under 40 CFR 51.165(a)(1)(xxviii)(B)(3) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(b) If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in R307-403-2(6)(a) to the reviewing authority. Nothing in this paragraph shall be construed to require the owner or operator of such a unit to obtain any determination from the reviewing authority before beginning actual construction.

(c) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions units identified in paragraph R307-403-2(6)(a)(ii); and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit.

(d) If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the reviewing authority within 60 days after the end of each year during which records must be generated under paragraph R307-403-2(6)(c) setting out the unit's annual emissions during the year that preceded submission of the report.

(e) If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the reviewing authority if the annual emissions, in tons per year, from the project identified in paragraph R307-403-2(6)(a), exceed the baseline actual emissions (as documented and maintained pursuant to paragraph R307-403-2(6)(c)), by a significant amount (as defined in 40 CFR 51.165(a)(1)(x)) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to paragraph R307-403-2(6)(c). Such report shall be submitted to the reviewing authority within 60 days after the end of such year. The report shall contain the following:

(i) The name, address and telephone number of the major stationary source;

(ii) The annual emissions as calculated pursuant to paragraph R307-403-2(6)(c); and

(iii) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

(f) A "reasonable possibility" under (R307-403-2(6)) occurs when the owner or operator calculates the project to result in either:

(i) A projected actual emissions increase of at least 50 percent of the amount that is a "significant emissions increase," as defined in 40 CFR 51.165(a)(1)(xxviii)(without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant; or

(ii) A projected actual emissions increase that, added to the amount of emissions excluded under 40 CFR 51.165(a)(1)(xxviii)(B)(3), sums to at least 50 percent of the amount that is a "significant emissions increase," as defined under paragraph 40 CFR 51.165(a)(1)(xxviii) without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant. For a project for which a reasonable possibility occurs only within the meaning of this paragraph, and not also within the meaning of paragraph R307-403-2(6)(f)(i), then provisions R307-403-2(6)(b) through (e) do not apply to the project.

(7) The owner or operator of the source shall make the information required to be documented and maintained pursuant to paragraph R307-403-2(6) above available for review upon a request for inspection by the director or the general public pursuant to the requirements contained in 40 CFR 70.4(b)(3)(viii).

(8) The requirements of R307-403 applicable to major stationary sources and major modifications of volatile organic compounds shall apply to nitrogen oxides emissions from major stationary sources and major modifications of nitrogen oxides in an ozone transport region or in any ozone nonattainment area, except in ozone nonattainment areas or in portions of an ozone transport region where the EPA Administrator has granted a nitrogen oxides waiver applying the standards set forth under section 182(f) of the Clean Air Act and the waiver continues to apply.

(9) Reserved.

(10) The requirements of R307-403 applicable to major stationary sources and major modifications of PM₁₀ shall also apply to major stationary sources and major modifications of PM₁₀ precursors, except where the Administrator determines that such sources do not contribute significantly to PM₁₀ levels that exceed the PM₁₀ ambient standards in the area.

(11) Reserved.

(12) R307-403 applies to any major source or major modification that is located outside a nonattainment area and is major for the pollutant for which the area is designated nonattainment under section 107(d)(1)(A)(i) of the Clean Air Act and that causes the significant increments in R307-403-3(1) to be exceeded in the nonattainment area.

(12) R307-403-5 applies to any new or modified source in a PM₁₀ nonattainment area.

KEY: air quality, nonattainment, offset

Date of Enactment or Last Substantive Amendment: 2013

Notice of Continuation: June 6, 2012

Authorizing, and Implemented or Interpreted Law: 19-2-104; 19-2-108

Environmental Quality, Air Quality
R307-403-10
 Analysis of Alternatives

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 37266
 FILED: 05/02/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was proposed by the Air Quality Board as part of a package that included six other rule changes. After the public comment period, two of those proposed rules, Section R307-403-2 (DAR No. 37264) and Rule R307-420 (DAR No. 37265), are undergoing substantive changes and cannot be made effective until 07/01/2013. There are no changes being proposed to this rule; however, in order for this rule to have the same effective date as the two rules that are being changed, the Division of Air Quality is filing a change in proposed rule (CPR) for this rule. (DAR NOTE: The CPR for Section R307-403-2 is under DAR No. 37264 and the CPR for Rule R307-420 is under DAR No. 37265 in this issue, June 1, 2013, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: There are no changes being made to the proposed rule. This filing is being done so that this rule can be made effective on the same date as Section R307-403-2 (DAR No. 37264) and Rule R307-420 (DAR No. 37265). (DAR NOTE: This CPR has been filed to extend the time frame for the proposed amendment for this rule that was published in the March 1, 2013, issue of the Utah State Bulletin, on page 42.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104 and Section 19-2-108

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There are no changes being made; therefore, there are no anticipated costs or savings.
- ◆ LOCAL GOVERNMENTS: There are no changes being made; therefore, there are no anticipated costs or savings.
- ◆ SMALL BUSINESSES: There are no changes being made; therefore, there are no anticipated costs or savings.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no changes being made; therefore, there are no anticipated costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no changes being made; therefore, there are no anticipated compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no changes being made; therefore, there will be no fiscal impact on businesses.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2013

AUTHORIZED BY: Bryce Bird, Director

DAR NOTE: No change has been proposed; see the reason under the "Reason for the Change" in the rule analysis above. To view the amended text, see the proposed amendment that was published in the March 1, 2013, issue of the Utah State Bulletin, on page 42.

Environmental Quality, Air Quality
R307-403-11
 Actuals PALs

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 37267
 FILED: 05/02/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was proposed by the Air Quality Board as part of a package that included six other rule changes. After the public comment period, two of those proposed rules, Section R307-403-2 (DAR No. 37264) and Rule R307-420 (DAR No. 37265), are undergoing substantive changes and cannot be made effective until 07/01/2013. There are no changes being proposed to this rule; however, in order for this rule to have the same effective date as the two rules that are being changed, the Division of Air Quality is filing a change in proposed rule (CPR) for this rule. (DAR NOTE: The CPR for Section R307-403-2 is under DAR No. 37264 and the CPR for Rule R307-420 is under DAR No. 37265 in this issue, June 1, 2013, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: There are no changes being made to the proposed rule. This filing is being done so that this rule can be made effective on the same date as Section R307-403-2 (DAR No. 37264) and Rule R307-420 (DAR No. 37265). (DAR NOTE: This CPR has been filed to extend the time frame for the proposed amendment for this rule that was published in the March 1, 2013, issue of the Utah State Bulletin, on page 43.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104 and Section 19-2-108**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** There are no changes being made; therefore, there are no anticipated costs or savings.
- ◆ **LOCAL GOVERNMENTS:** There are no changes being made; therefore, there are no anticipated costs or savings.
- ◆ **SMALL BUSINESSES:** There are no changes being made; therefore, there are no anticipated costs or savings.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no changes being made; therefore, there are no anticipated costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no changes being made; therefore, there are no anticipated compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no changes being made; therefore, there will be no fiscal impact on businesses.

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

ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2013

AUTHORIZED BY: Bryce Bird, Director

DAR NOTE: No change has been proposed; see the reason under the "Reason for the Change" in the rule analysis above. To view the amended text, see the proposed amendment that was published in the March 1, 2013, issue of the Utah State Bulletin, on page 43.

Environmental Quality, Air Quality **R307-420**

Permits: Ozone Offset Requirements in Davis and Salt Lake Counties

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 37265

FILED: 05/02/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the public comment period, the Division of Air Quality (DAQ) determined that provisions in Subsection R307-420-3(3) were potentially confusing and could be interpreted to apply to all new source review (NSR) pollutants and not to just volatile organic compounds (VOCs) and nitrogen oxides.

SUMMARY OF THE RULE OR CHANGE: Subsection R307-420-3(3) is amended by adding language to clarify that the provisions of Subsections R307-403-2(1)(a) through (f) and Subsections R307-403-2(2) through (7) apply in Rule R307-420 for the limited purpose of determining whether a modification is a major modification for VOC or nitrogen oxides. (DAR NOTES: The change in proposed rule (CPR) for Section R307-403-2 is under DAR No. 37264 in this issue, June 1, 2013, of the Bulletin. This CPR has been filed to make additional changes to a proposed amendment that was published in the March 1, 2013, issue of the Utah State Bulletin, on page 43. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104 and Section 19-2-108

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** Because there are no new requirements to the state, there are no anticipated costs or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** Because no new requirements are added, there are no anticipated costs or savings to local government.
- ◆ **SMALL BUSINESSES:** Because no new requirements are added, there are no anticipated costs or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because no new requirements are added there are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes made in this change in proposed rule are to add clarifying language. There are no changes that will result in additional compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes made in this change in proposed rule are to add clarifying language. There should be no fiscal impact to small businesses as a result of these changes.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2013

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-420. Permits: Ozone Offset Requirements in Davis and Salt Lake Counties.

R307-420-1. Purpose.

The purpose of R307-420 is to maintain the offset provisions of the nonattainment area new source review permitting program in Salt Lake and Davis Counties after the area is redesignated to attainment for ozone. R307-420 also establishes more stringent offset requirements for nitrogen oxides that may be triggered as a contingency measure under the ozone maintenance plan.

R307-420-2. Definitions.

Except as provided in R307-420-2, the definitions in R307-403-1 apply to R307-420.

"Major Source" means:

(1)(a) any stationary source of air pollutants which emits, or has the potential to emit, fifty tons per year or more of volatile organic compounds; or

(b) any stationary source of air pollutants which emits, or has the potential to emit, one hundred tons per year or more of nitrogen oxides; or

(c) any physical change that would occur at a source not qualifying under (1)(a) or (b) as a major source, if the change would constitute a major source by itself.

(2) The fugitive emissions of a stationary source shall not be included in determining whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

- (a) Coal cleaning plants (with thermal dryers);
- (b) Kraft pulp mills;
- (c) Portland cement plants;
- (d) Primary zinc smelters;
- (e) Iron and steel mills;
- (f) Primary aluminum ore reduction plants;
- (g) Primary copper smelters;
- (h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (i) Hydrofluoric, sulfuric, or nitric acid plants;
- (j) Petroleum refineries;

(k) Lime plants;

(l) Phosphate rock processing plants;

(m) Coke oven batteries;

(n) Sulfur recovery plants;

(o) Carbon black plants (furnace process);

(p) Primary lead smelters;

(q) Fuel conversion plants;

(r) Sintering plants;

(s) Secondary metal production plants;

(t) Chemical process plants;

(u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British Thermal Units per hour heat input;

(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(w) Taconite ore processing plants;

(x) Glass fiber processing plants;

(y) Charcoal production plants;

(z) Fossil fuel-fired steam electric plants of more than 250 million British Thermal Units per hour heat input;

(aa) Any other stationary source category which, as of August 7, 1980, is being regulated under 42 U.S.C. 7411 or 7412 (section 111 or 112 of the federal Clean Air Act).

"Significant" means, for the purposes of determining what is a significant emission increase or a significant net emission increase and therefore a major modification, a rate of emissions that would equal or exceed any of the following rates:

(1) for volatile organic compounds, 25 tons per year,

(2) for nitrogen oxides, 40 tons per year.

R307-420-3. Applicability.

(1) Nitrogen Oxides. Effective August 18, 1997, any new major source or major modification of nitrogen oxides in Davis County or Salt Lake County shall offset the proposed increase in nitrogen oxide emissions by a ratio of 1.15:1 before the director may issue an approval order to construct, modify, or relocate under R307-401.

(2) Volatile Organic Compounds. Effective December 2, 1998 any new major source or major modification of volatile organic compounds in Davis County or Salt Lake County shall offset the proposed increase in volatile organic compound emissions by a ratio of 1.2:1 before the director may issue an approval order to construct, modify, or relocate under R307-401.

(3) The applicability provisions in R307-403-2(1)(a) through (f) and R307-403-2(2) through (7) apply in R307-420 for the limited purpose of determining whether a modification is a major modification for volatile organic compounds or nitrogen oxides. Emissions of other regulated air pollutants shall not be considered in this determination.

R307-420-4. General Requirements.

(1) All emission offsets shall meet the general requirements for calculating and banking emission offsets that are established in R307-403-4, R307-403-7 and R307-403-8.

(2) Emission offset credits generated in Davis County or Salt Lake County may be used in either county.

(3) Offsets may not be traded between volatile organic compounds and nitrogen oxides.

R307-420-5. Contingency Measure: Offsets for Oxides of Nitrogen.

If the nitrogen oxide offset contingency measure described in Section IX, Part D.2.h(3) of the state implementation plan is triggered, the following conditions shall apply in Davis County and Salt Lake County.

(1) Paragraph (1)(b) in the term "major source," which is defined in R307-420-2, shall be changed to read: any stationary source of air pollutants which emits, or has the potential to emit, fifty tons per year or more of nitrogen oxides.

(2) The nitrogen dioxide level that is included in the term "significant,"[;] which is defined in R307-420-2, shall be changed from 40 tons per year to 25 tons per year.

(3) The emission offset ratio shall be 1.2:1 for nitrogen oxides.

KEY: air pollution, ozone, offset

Date of Enactment or Last Substantive Amendment: 2013

Notice of Continuation: June 6, 2012

Authorizing, and Implemented or Interpreted Law: 19-2-104; 19-2-108

End of the Notices of Changes in 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. Comments may be made on the **PROPOSED RULE**. Emergency or **120-DAY RULES** are governed by Section 63G-3-304; and Section R15-4-8.

Administrative Services, Purchasing and General Services **R33-3-3** Small Purchases

NOTICE OF 120-DAY (EMERGENCY) RULE
DAR FILE NO.: 37633
FILED: 05/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the emergency rule is so that the Division of Purchasing and General Services can comply with S.B. 190 (2013 General Session), Utah Procurement Code Revisions, which became effective 05/01/2013.

SUMMARY OF THE RULE OR CHANGE: Subsection 63G-3-301(13) requires state agencies to make or amend their administrative rules within 180 days of the effective date of the legislation that required the rulemaking.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63G-6a-101

EMERGENCY RULE REASON AND JUSTIFICATION:
REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.
JUSTIFICATION: Subsection 63G-3-301(13) requires state agencies to make or amend their administrative rules within 180 days of the effective date of the legislation that required the rulemaking.

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** These rule amendments will not affect the state budget because they are simply refining source selection procedures for small purchases made by the Division of Purchasing and General Services.
- ◆ **LOCAL GOVERNMENTS:** These rule amendments will not affect local governments' budgets because they are simply refining source selection procedures for small purchases made by the Division of Purchasing and General Services.
- ◆ **SMALL BUSINESSES:** These rule amendments will not affect the budget of small businesses, because they are simply refining source selection procedures for small purchases made by the Division of Purchasing and General Services.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These rule amendments will not affect any other person's budget, because they are simply refining source selection procedures for small purchases made by the Division of Purchasing and General Services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for any other persons, because the amendments are simply refining source selection procedures for small purchases made by the Division of Purchasing and General Services.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These amendments have no fiscal impact on businesses.

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

ADMINISTRATIVE SERVICES
PURCHASING AND GENERAL SERVICES
ROOM 3150 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov
♦ Chiarina Glead by phone at 801-538-3240, by FAX at 801-538-3313, or by Internet E-mail at cglead@utah.gov
♦ Paul Mash by phone at 801-538-3138, by FAX at 801-538-3882, or by Internet E-mail at pmash@utah.gov

EFFECTIVE: 05/15/2013

AUTHORIZED BY: Kent Beers, Director

R33. Administrative Services, Purchasing and General Services.

R33-3. Source Selection and Contract Formation.

R33-3-3. Small Purchases.

3-301 ~~[Authority to Make Small Purchases]~~ General Provisions.

(1) All small purchases must comply with this rule unless another method of source selection provided in Title 63G-6a, the Utah Procurement Code and Administrative Rule R33 is used.

(a) Sole source procurements must follow the process outlined in the Utah Procurement Code and Administrative Rule R33-3-4.

(2) Use of State Cooperative Contracts. An executive branch procurement unit may not obtain a procurement item through this Small Purchasing Rule if the procurement item may be obtained through a state cooperative contract or a contract awarded by the chief procurement officer under Utah Code 63G-6a-2105(1) unless either (a) or (b) below is met:

(a) The procurement item is obtained for an urgent or unanticipated emergency condition, including:

(i) an item needed to avoid stopping a public construction project;

(ii) an immediate repair to a facility or equipment; or

(iii) another emergency condition.

(b) The chief procurement officer or the head of a procurement unit that is an executive branch procurement unit with independent procurement authority determines in writing:

(i) that it is in the best interest of the state to obtain a procurement item outside of the state contract after reviewing a cost/benefit analysis comparing, as applicable, the following:

(A) the contract terms and conditions applicable to the procurement item under the state contract with the contract terms and conditions applicable to the procurement item if the procurement item is obtained outside of the state contract;

(B) the maintenance and service applicable to the procurement item under the state contract with the maintenance and service applicable to the procurement item if the procurement item is obtained outside of the state contract;

(C) the warranties applicable to the procurement item under the state contract with the warranties applicable to the procurement item if the procurement item is obtained outside of the state contract;

(D) the quality of the procurement item under the state contract with the quality of the procurement item if the procurement item is obtained outside of the state contract;

(E) the cost of the procurement item under the state contract with the cost of the procurement item if the procurement item is obtained outside of the state contract; and

(i) that for a procurement item which if defective in its manufacture, installation, or performance, may result in serious physical injury, death, or substantial property damage; the terms and conditions including insurance, indemnifications and warranties, relating to liability for injury, death, or property damage, available from the source other than the contractor who holds the state contract, are similar to, or better than, the terms and conditions available under the state contract.

(3) Prohibition Against Artificial Division of Procurements and Invoices. The Utah Procurement Code provides the following prohibitions: It is unlawful for a person to intentionally or knowingly divide a procurement into one or more smaller procurements with the intent to make a procurement:

(a) qualify as a small purchase if, before dividing the procurement, it would not have qualified as a small purchase; or

(b) meet a threshold established by rule made by the applicable rulemaking authority if, before dividing the procurement, it would not have met the threshold.

(4) A division of a procurement that is prohibited includes doing any of the following with the intent or knowledge described in (3)(a) or (3)(b):

(a) making two or more separate purchases;

(b) dividing an invoice or purchase order into two or more invoices or purchase orders; or

(c) making smaller purchases over a period of time.

(5) A procurement unit subject to these rules may implement more, but not less, restrictive thresholds or require threshold limits to be consolidated at the highest administrative level within the organization.

~~_____ (1) Amount. The Office of the Chief Procurement Officer or purchasing agency may use these procedures if the procurement is estimated to be less than \$50,000 for supplies, services or construction. If these procedures are not used, the other methods of source selection provided in Section 63G-6-410 of the Utah Procurement Code and these rules shall apply.~~

~~_____ (2) Existing Statewide Contracts. Supplies, services, or construction items available under statewide contracts or similar agreements shall be procured under these agreements in accordance with the provisions or requirements for use and not under this subpart unless otherwise authorized by the Chief Procurement Officer.~~

~~_____ (3) Available from One Business Only. If the supply, service, or construction item is available only from one business, the sole source procurement method set forth in subpart 3-4 of these rules shall be used.~~

~~_____ (4) Division of Requirements. Procurement requirements shall not be artificially divided to avoid using the other source selection methods set forth in Section 63G-6-410 of the Utah Procurement Code.~~

~~]~~ ~~3-302 [Small Purchases of Supplies, Services or Construction Between \$5,000 and \$50,000.]~~ Small Purchase Thresholds for Individual Procurement Item(s) under \$1,000.

(1) Thresholds for Individual Procurement Item(s) under \$1,000:

(a) "Individual Procurement Threshold" means the maximum amount for which a procurement unit subject to these rules may purchase an individual procurement item under this Rule R33-3-302.

(b) "Single Procurement Aggregate Threshold" means the maximum total amount that a procurement unit subject to these rules may expend to obtain multiple individual procurement items from one source at one time under this Rule R33-3-302.

(c) "Annual Cumulative Threshold" means the maximum total amount that a procurement unit subject to these rules may expend to obtain individual procurement items from the same source under this Rule R33-3-302.

(i) For the purpose of this rule, "annual" is defined as the applicable fiscal year of each entity subject to these rules.

(d) The individual procurement threshold \$1,000 for a procurement item;

(e) The single procurement aggregate threshold is \$5,000 for multiple procurement item(s) purchased from one source at one time; and

(f) The annual cumulative threshold from the same source is \$50,000.

(2) For individual procurement item(s) costing up to \$1,000, an entity subject to these rules may select the best source by direct award and without seeking competitive bids or quotes.

(3) Competition. Whenever practicable, the Division of Purchasing and General Services and entities subject to these rules shall use a rotation system or other system designed to allow for competition when using the small purchases process.

(4) A procurement unit may not use the small purchase process described in this rule for ongoing, continuous, and regularly scheduled individual procurement items that exceed the annual cumulative threshold and shall make its ongoing, continuous, and regularly scheduled procurements for individual procurement items that exceed the annual cumulative threshold through a contract awarded in accordance with the Utah Procurement Code.

(5) Small purchase expenditures may not exceed the thresholds established under this rule unless the chief procurement officer or the head of a procurement unit with independent procurement authority provides written justification for exceeding a threshold.

3-303 Professional Services, Including Architectural and Engineering Services Threshold.

(1) "Professional Services, Including Architectural and Engineering" means the total cost to be paid to a professional services provider in conjunction with a small project or purchase under this Rule R33-3-3.

(a) The small purchase threshold for professional services, including architectural and engineering services, is \$100,000;

(b) Procurement units subject to these rules shall follow the process outlined in Utah Procurement Code 63G-6a-403 (Prequalification of Potential Vendors) and 63G-6a-404 (Approved Vendor List) or other applicable selection methods outlined in the Utah Procurement Code for the procurement of professional services that include minimum specifications. Executive Branch procurement units,

to the extent they do not have independent procurement authority, shall involve the Division of Purchasing and General Services in the procurement of professional services;

(c) A contract may not be awarded through a sole source, except as provided in the Utah Procurement Code or Administrative Rule R33-3-4.

3-304 Small Construction Project Threshold.

(1) "Small Construction Project" means the total amount of the construction project including programming, design, and all associated construction costs for a purchase under this Rule 33-3-3.

(a) The small construction project threshold is \$2,500,000;

(b) Procurement units subject to these rules shall follow the process outlined in the Utah Procurement Code 63G-6a-403 (Prequalification of Potential Vendors) and 63G-6a-404 (Approved Vendor List) or other applicable selection methods outlined in the Utah Procurement Code for construction services.

(c) Executive Branch procurement units, to the extent they do not have independent procurement authority, shall involve the Division of Purchasing and General Services in the procurement of all construction services.

(d) The Division of Purchasing and General Services may procure small construction projects costing less than \$25,001 by direct award without seeking competitive bids or quotes after documenting that all building code approvals, licensing requirements, permitting and other construction related requirements are met. The awarded contractor must certify that they are capable of meeting the minimum specifications of the project.

(e) Procurement units, with independent procurement authority and subject to these rules, may procure small construction projects costing less than \$25,001 by direct award without seeking competitive bids or quotes after documenting that all applicable building code approvals, licensing requirements, permitting and other construction related requirements are met. The awarded contractor must certify that they are capable of meeting the minimum specifications of the project.

(f) The Division of Purchasing and General Services may procure small construction projects costing between \$25,001 and \$100,000 by obtaining a minimum of two competitive quotes that include minimum specifications and shall award to the contractor with the lowest quote that meets the specification after documenting that all applicable building code approvals, licensing requirements, permitting and other construction related requirements are met.

(g) Procurement units, with independent procurement authority and subject to these rules, may procure small construction projects costing between \$25,001 and \$100,000 by obtaining a minimum of two competitive quotes that include minimum specifications and shall award to the contractor with the lowest quote that meets the specification after documenting that all applicable building code approvals, licensing requirements, permitting and other construction related requirements are met.

(h) Procurement units with independent procurement authority and subject to these rules, shall procure small construction projects over \$100,000 using an invitation to bid or other approved source selection method outlined in the Utah Procurement Code that include minimum specifications and shall award to the contractor meeting the specifications after documenting that all applicable building code approvals, licensing requirements, permitting and other construction related requirements are met.

~~(i) A contract may not be awarded through a sole source, except as provided in the Utah Procurement Code or Administrative Rule R33-3-4.~~

~~[(1) Procedure. Insofar as it is practical for small purchases of supplies, services or construction between \$5,000 and \$50,000, no less than two businesses shall be solicited to submit electronic, telephone or written quotations. Award shall be made to the business offering the lowest acceptable quotation.~~

~~(2) Records. The names of the businesses offering quotations and the date and amount of each quotation shall be recorded and maintained as a public record.~~

~~3-305[3-303] [Small Purchases of \$5,000 or Less]Small Purchases from \$1,001 to \$50,000 Requiring Quotes.~~

~~[The Chief Procurement Officer shall delegate to state agencies the ability to make purchases up to \$5,000 without involvement of the Division of Purchasing and General Services. For purchases up to \$1,000, the agency may select the best source without seeking competitive quotes. For purchases over \$1,000 and up to \$5,000, agencies shall obtain price competition, and shall purchase the item from the vendor offering the lowest quote. Unless otherwise delegated requests for all purchases over \$5,000, and sole source purchases exceeding \$1,000 shall be submitted to the Division of Purchasing and General Services.~~

~~(1) Procedures.~~

~~(a) For procurement item(s) costing between \$1,001 and \$5,000, an entity subject to these rules shall obtain a minimum of two competitive quotes that include minimum specifications and shall purchase the procurement item from the responsible vendor offering the lowest quote that meets the specifications.~~

~~(b) For procurement item(s) costing between \$5,001 and \$50,000, a procurement unit with independent procurement authority that is subject to these rules or the Division of Purchasing and General Services on behalf of an executive branch procurement unit without independent procurement authority, as applicable, shall obtain a minimum of two competitive quotes that include minimum specifications and shall purchase the procurement item from the responsible vendor offering the lowest quote that meets the specification.~~

~~(c) For procurement item(s) costing over \$50,000, a procurement unit with independent procurement authority that is subject to these rules or the Division of Purchasing and General Services on behalf of an executive branch procurement unit without independent procurement authority, as applicable, shall conduct an invitation for bids or other procurement process outlined in the Utah Procurement Code.~~

~~(2) Limited Purchasing Delegation for Small Purchases. The Division of Purchasing and General Services may delegate limited purchasing authority for small purchases costing between \$5,001 and \$50,000, provided that the executive branch procurement unit enters into an agreement with the Division outlining the duties and responsibilities of the unit to comply with applicable laws, rules, policies and other requirements of the Division.~~

~~(3) Records. The names of the vendors offering quotations and bids and the date and amount of each quotation or bid shall be recorded and maintained as a governmental record.~~

~~3-30[4]6 Small Purchases of Services of Professionals, Providers, and Consultants.~~

If it is expected that the services of professionals, providers, and consultants can be procured for less than \$50,000, the procedures specified in this subpart may be used.

KEY: government purchasing

Date of Enactment or Last Substantive Amendment: May 15, 2013

Notice of Continuation: July 2, 2012

Authorizing, and Implemented or Interpreted Law: 63G-6

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

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 37620

FILED: 05/13/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this emergency rule is to reflect the changes made in Title 4, Chapter 3, by the 2013 Legislature in the General Session and to make them effective the same date as the statutory changes.

SUMMARY OF THE RULE OR CHANGE: This filing does the following: 1) changes the scope of the law to include, in addition to the selling of raw milk, its manufacture, distribution and holding; 2) changes the requirements for a permit suspension from "one strike you're out" to a policy that is more flexible; 3) clearly establishes the bacteriological standards as determined by the Standard Plate Count and the Total Coliforms; 4) allows batch samples to be obtained from other locations instead of the self-owned off-premise store; 5) removes HACCP plan requirements; 6) removes pathogen sampling requirements; 7) allows producers to have samples analyzed at the State Dairy Lab; and 8) allows UDAF to collect a fee for analyzing raw milk samples.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-3-14 and Section 4-3-2 and Section 4-3-5

EMERGENCY RULE REASON AND JUSTIFICATION:

REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

JUSTIFICATION: The statutory changes goes into effect 05/14/2013. Rule R70-330 will be in violation of Title 4, Chapter 3, if the rule changes do not go into effect the same date.

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The state budget should realize minor savings. The State Dairy Lab will no longer have to

conduct pathogen sampling of raw milk. Savings undetermined, but minor due to the very small amount of sampling avoided.

- ◆ LOCAL GOVERNMENTS: Local governments are not involved in dairy regulations. There will be no impact.
- ◆ SMALL BUSINESSES: The one commercial lab that analyzes dairy samples should see some reduced sales as dairies can now submit samples to the State Dairy Lab.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No other persons have been identified.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The impacted dairies claim that these changes will reduce their operating expenses. No definitive amount of savings has been offered to us.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This emergency rule is necessary to implement the changes made by the 2013 Utah Legislature. UDAF will submit a permanent rule in the near future.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov
- ◆ Richard Clark by phone at 801-538-7150, by FAX at 801-538-7126, or by Internet E-mail at richardwclark@utah.gov

EFFECTIVE: 05/14/2013

AUTHORIZED BY: Leonard Blackham, Commissioner

R70. Agriculture and Food, Regulatory Services.

R70-330. Raw Milk for Retail.

R70-330-1. Authority.

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

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

C. History: The Utah Department of Agriculture and Food, with the concurrence of the U.S. Food and Drug Administration (FDA) strongly advises against the consumption of raw milk. There are numerous documented outbreaks of milkborne disease involving Salmonella and Campylobacter infections directly linked to the consumption of un-pasteurized milk. Cases of raw milk associated campylobacteriosis have been reported in the states of Arizona, California, Colorado, Georgia, Kansas, Maine, Montana, New Mexico,

Oregon, Pennsylvania, and Utah. An outbreak of salmonellosis, involving 50 cases was confirmed in Ohio in 2002. Recent cases of Escherichia coli (E. coli) 0157:H7, Listeria monocytogenes, and Yersinia enterocolitica infections have also been attributed to raw milk consumption.

R70-330-2. Definitions.

A. "Raw milk" means milk as defined by law that has not been pasteurized, or heat treated. The word milk shall be interpreted to include the normal lacteal secretion, practically free of colostrum, obtained by the complete milking of one or more healthy hoofed mammals.

B. "Properly staffed" means a person or persons on premise available to sell milk, exchange money, and lock and secure the retail store.

~~C. ["Quarterly pathogen testing verification" means a sample from the Raw for Retail batch is aseptically split by the Regulatory agency and tested for the prescribed pathogens at both the independent laboratory and the department laboratory and the results are evaluated and compared.~~

~~—————D.———]~~"Department" means the Utah Department of Agriculture and Food.

R70-330-3. Permits.

A permit shall be required to manufacture, distribute, sell, deliver, hold or store~~[seth]~~ raw milk~~[for retail]~~. Such permit shall be suspended when these rules or applicable sections of the Utah Dairy Act, Utah Code Annotated (UCA), Vol. 1, Title 4, Chapter 3, are violated. Cow-share programs, as defined in the Utah Dairy Act, shall not be allowed, either in conjunction with a permitted raw for pasteurization dairy, a permitted raw milk for retail dairy, or in lieu of a permit to sell raw milk for retail.

R70-330-4. Building and Premises Requirements.

The building and premises requirements at the time of the issuance of a new permit shall be the same as the current Grade A building guidelines. In addition to these guidelines, there shall be separate rooms provided for (1) packaging and sealing of raw milk, (2) the washing of returned multi-use containers when applicable, and (3) a sales room for the sale of raw milk in a properly protected area that is not located in any of the milk handling rooms. These rooms shall meet or exceed the construction standards of a Grade A milkhouse. If the Raw for Retail dairy also raises chickens ,or other poultry, for meat and/or eggs, their housing and movement shall be restricted to areas that do not include the milkhouse, milk barn and their immediate surroundings, the corrals and alleys where there is normally cows or goats, and other locations where there is normal cow or goat traffic. They shall also be restricted from areas normally considered traffic areas of the raw milk customers.

R70-330-5. Sanitation and Operating Requirements.

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

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

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

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

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

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

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

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

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

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

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

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

F. Raw milk brick cheese, when held at no less than 35 degrees F. for 60 days or longer, may be sold at retail stores or for wholesale distribution, at locations other than the premise where the milk was produced.

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

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

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

R70-330-6. ~~Testing~~ Bacteriological Standards.

A. The bacterial standards for unpackaged raw milk, packaged raw milk sold on premise and packaged raw milk sold at a self-owned retail store shall be a bacterial count of no more than 20,000 per ml. and a coliform count of no more than 10 per ml.

B. The department shall suspend a permit issued under Section 4-3-8 if two out of four consecutive samples or two samples in a 30-day period violate the sample limits established in R70-330-6(A).

R70-330-7. Testing.

A. Raw Milk for Retail Testing.

1. Unpackaged Raw Milk

a. The Department shall collect a representative sample of milk from each Raw for Retail farm bulk tank once each month. All samples shall be delivered to the State Dairy Testing Laboratory. Tests shall include those prescribed for Raw Milk for Pasteurization as found in the Pasteurized Milk Ordinance, and in addition shall include added water, and/or other adulterants. ~~Whenever a sample result fails to meet a standard in any of the prescribed categories, the Raw for Retail permit shall be suspended until satisfactory sample results are received by the Department or an approved independent laboratory, meeting Pasteurized Milk Ordinance/Department standards and reported to the department by the laboratory. At such time as the above criteria are met, the Raw for Retail permit shall be fully reinstated.]~~

b. The Somatic Cell Count (SCC) in unpackaged raw milk for retail shall not exceed 400,000 cells per milliliter (ml) for cows, and not to exceed 1,500,000 cells per ml for goats. Whenever three out of five samples fail to meet this standard in a 5-month period, the Department shall suspend the raw for retail permit. The suspension shall remain effective until a sample result meets the standard. A temporary permit shall be issued at that time. The permit shall be fully reinstated when three of five samples meet the standard in a five-month period.

2. Packaged Raw Milk sold on Premise

a. It shall be the responsibility of the Department to collect a representative sample of packaged raw milk once each month. All samples shall be delivered to the State Dairy Testing Laboratory. Tests shall include those prescribed for Grade "A" Pasteurized milk as found in the Pasteurized Milk Ordinance. ~~Whenever a sample result fails to meet a standard in any of the prescribed categories, the Raw for Retail permit shall be suspended until satisfactory sample results are received by the Department, meeting Pasteurized Milk Ordinance/Department standards. At such time as the above criteria are met, the Raw for Retail permit shall be fully reinstated.]~~

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

a. It shall be the responsibility of the producer to have a sampler certified by the Department to collect a sample from each batch of milk ~~[delivered to the retail store by obtaining one container of milk at the store]~~ and submit[ting] it to the State Dairy Laboratory or a certified independent laboratory to be tested for Antibiotic Drug Residue, Standard Plate Count (SPC) and Coliform Count. All ~~[containers of]~~ milk from the sampled batch shall be withheld from sale until the results of the tests are known. Whenever a sample result exceeds the standard in any of the prescribed categories,

(i) the producer shall not allow the milk to enter into commerce and shall dispose of the milk in a manner agreeable to the Department ~~[, and~~

~~(ii) the Department shall suspend the producer's raw for retail permit until satisfactory sample results are received by a contracted approved independent laboratory, meeting Department standards, and reported to the Department by the laboratory].~~ The producer may sell raw milk from batches that were produced earlier and whose testing results met the standards.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~B. Animal Health Tests.~~

~~1. General herd health examination. Prior to inclusion in a raw milk supply, and each six months thereafter, all animals shall be examined by a veterinarian. Each animal in the herd must be positively identified as an individual. This examination shall include an examination of the milk by a method recommended by the Pasteurized Milk Ordinance, shall include a statement of the udder health of each animal, and a general systemic health evaluation.~~

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

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

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

~~C. Personnel Health.~~

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

~~R70-330-[7]8. Packaging and Labeling.~~

~~A. Label Requirements.~~

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

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

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

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

4. Nutritional labeling information when applicable.

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

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

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

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

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

KEY: dairy inspection, raw milk

Date of Enactment or Last Substantive Amendment: May 14, 2013

Notice of Continuation: March 16, 2011

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

**Alcoholic Beverage Control,
Administration
R81-1-31
Duties of the Commission
Subcommittees**

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 37611

FILED: 05/13/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule is to implement S.B. 66 passed by the Legislature in the 2012 General Session. S.B. 66 created commission subcommittees with duties to be defined by rule, Subsection 32B-2-201.5(4). An emergency rule was filed in February 2013 and the formal rulemaking process was initiated. The previous rule did not address action item when a quorum of the full commission (four members) is present at subcommittee meetings. This rule clarifies that if there are at least four members of the commission present at a subcommittee meeting, the subcommittee make take action on agenda items.

SUMMARY OF THE RULE OR CHANGE: The proposed Section R81-1-31 defines the duties of the two commission subcommittees -- Compliance, Licensing and Enforcement Subcommittee and the Operations and Procurement Subcommittee.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32B-1-607 and Section 32B-2-201.5

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

JUSTIFICATION: Emergency rulemaking is necessary for the agency to comply with state statute that administrative rules be in place within six months of enactment. S.B. 66 was passed in the 2012 General Session, creating two commission subcommittees. An emergency rule was filed on 02/15/2013 and the formal rulemaking process was initiated. However, the commission decided not to adopt the rule as proposed and a change in proposed rule has now been filed. This emergency rule is being filed to ensure that a rule remains in place as we engage in the formal rulemaking process.

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** None--This rule filing simply makes the Department of Alcoholic Beverage Control (DABC) rules consistent with state statute.

◆ **LOCAL GOVERNMENTS:** None--This rule filing simply makes the DABC rules consistent with state statute.

◆ **SMALL BUSINESSES:** None--This rule filing simply makes the DABC rules consistent with state statute.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--This rule filing simply makes the DABC rules consistent with state statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This rule filing simply makes the DABC rules consistent with state statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--This rule filing simply makes the DABC rules consistent with state statute.

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION

1625 S 900 W

SALT LAKE CITY, UT 84104-1630

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

EFFECTIVE: 05/13/2013

AUTHORIZED BY: Sal Petilos, Executive Director

R81. Alcoholic Beverage Control, Administration.

R81-1. Scope, Definitions, and General Provisions.

R81-1-31. Duties of Commission Subcommittees.

(1) This rule is promulgated pursuant to Section 32B-2-201.5 and shall govern the duties of the two commission subcommittees, Compliance Licensing and Enforcement Subcommittee and the Operations and Procurement Subcommittee.

(2) The Compliance Licensing and Enforcement Subcommittee will review and discuss items related to compliance, licensing and enforcement and make recommendations to the full commission on those items.

(3) The Operations and Procurement Subcommittee will review and discuss items related to operations and procurement and make recommendations to the full commission on those items.

(4) If a quorum of the full commission is present, the subcommittee may act on all agenda action items.

(5) If a quorum of the full commission is not present, a recommendation on action items can be presented to a quorum of the commission for action without discussion if:

(a) A quorum of the subcommittee is present;

(b) There is a unanimous vote on the recommendation; and

(c) A member of the full commission does not request discussion on the items of recommendation.

(6) A subcommittee quorum is the majority of standing members.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: May 13, 2013

Notice of Continuation: May 10, 2011

Authorizing, and Implemented or Interpreted Law: 32B-2-201(10); 32B-2-202; 32B-3-203(3)(c); 32B-1-305; 32B-1-306; 32B-1-307; 32B-1-607; 32B-1-304(1)(a); 32B-6-702; 32B-6-805(3); 32B-9-204(4); 32B-4-414(1)(b) and (c)

Public Safety, Driver License

R708-21

Third Party Testing

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 37614

FILED: 05/13/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this change is to add language to this rule that is required with the passage of S.B. 19 from the 2013 General Legislative Session.

SUMMARY OF THE RULE OR CHANGE: This change adds language which requires an applicant for a commercial driver license third party tester or third party examiner license to submit fingerprints and consent to a criminal history background check and FBI check and pay the costs associated with those checks.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-3-104 and Section 53-3-407.1

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

JUSTIFICATION: Section 53-3-207.1 is effective on 05/14/2013.

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Bureau of Criminal Investigations will receive an applicant's fees to cover the cost associated with a criminal history background check and an FBI check.

◆ **LOCAL GOVERNMENTS:** There is no fiscal impact to local government because local government does not regulate third-party testers and examiners for a commercial driver license.

◆ **SMALL BUSINESSES:** Costs associated with criminal history background checks and FBI checks for each applicant for a commercial driver license third party tester or third party examiner will be required. It is not known if the business will pay these costs or require their employees to pay these costs.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Costs associated with criminal history background checks and FBI checks for each applicant for a commercial driver license third party tester or third party examiner will be required. It is not known if the business will pay these costs or require their employees to pay these costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Costs associated with criminal history background checks and FBI checks for each applicant for a commercial driver license third party tester or third party examiner will be required. It is not known if the business will pay these costs or require their employees to pay these costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and determined this rule does not have a fiscal impact on businesses.

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 by phone at 801-964-4469, by FAX at 801-964-4482, or by Internet E-mail at jlaws@utah.gov

EFFECTIVE: 05/14/2013

AUTHORIZED BY: Nannette Rolfe, Director

R708. Public Safety, Driver License.

R708-21. Third-Party Testing.

R708-21-1. Authority.

This rule is authorized by ~~[Sections]~~Section 53-3-104, ~~and 49 Part 383.75 of the Code of Federal Regulations.~~

R708-21-2. Purpose.

The purpose of this rule is to establish standards and procedures for Third-party Testers and Third-party Examiners who enter into an agreement with the State, to administer skills tests to commercial drivers.

R708-21-3. Definitions.

(1) Definitions used in this rule are found in Section 53-3-102.

(2) In addition:

(a) "act involving moral turpitude" means conduct which:

(i) is done knowingly contrary to justice, honesty, or good morals;

(ii) has an element of falsification or fraud; or

(iii) contains an element of harm or injury directed to another person or another property;

(b) "designated representative" means a person identified by an organization, who is an officer, owner, partner or employee of the organization and who is authorized by the organization to comply with Third-party Testing Program requirements[-];

(c) "established business" means any company that has been issued a license by a state, county or city licensing agency to conduct business[-];

(d) "probation" means action taken by the department, which includes a period of close supervision as determined by the division[-];

(e) "revocation" means the permanent removal of certification of a Third-party Tester or Third-party Examiner[-];

(f) "state" means the State of Utah[-];

(g) "third-party examiner" means a person who has completed, passed and maintains the required training to administer the skills tests to commercial drivers[-]; and

(h) "third-party tester" means a person, an agency of this state, an employer, a private driver training facility or other private institution, or a department, agency or entity of local government with whom the state has an agreement to administer skills tests to commercial drivers.

R708-21-4. Requirements for Application, Certification and Renewal of Certification for a Third-party Tester.

(1) Application for an original or renewal Third-party Tester certification shall be made on a form furnished by the division, and shall include:

- (a) name of Third-party Tester;
- (b) address of Third-party Tester;
- (c) number of years Third-party Tester has been in business;
- (d) names of all Third-party Examiners;
- (e) addresses of all testing sites;
- (f) name of the designated representative; and
- (g) copy of business license.

(2) Upon receipt of the application, fingerprnt card and required fees, the division shall schedule an appointment with the Third-party Tester to determine eligibility, establish test routes, schedule instruction and provide forms.

(3) A written agreement shall be made with the state to conduct skills test as required by Federal regulations established in 49 CFR ~~[Part]~~383.75. The agreement shall contain the following provisions:

(a) allow the Federal Motor Carrier Safety Administration (FMCSA) or its representative, and/or the division to conduct random examinations, inspections and audits without prior notice;

(b) allow the division to conduct on-site inspections annually or when deemed necessary by the division;

(c) require all Third-party Examiners receive training approved by the division which requires them to conduct skills tests in compliance with the FMCSA minimum standards; and

(d) require at least one of the following on an annual basis:

(i) a division representative take the tests actually administered by the Third-party Examiner as if the division representative were a test applicant; ~~[-or]~~

(ii) the division test a sample of drivers who were examined by the Third-party Examiner to compare pass/fail results; or

(iii) the division co-score along with the Third-party Examiner during CDL skills test to compare pass/fail.

(4) The Third-Party tester shall:

(a) have an established business for a minimum of two years, ~~[-];~~ or employ a Third-party Examiner that has been certified the previous two years under R708-21-5;

~~[-] (b) employ a Third-party Examiner that has been certified the previous two years under R708-21-5 of this rule;~~

~~]~~ ~~([e]b)~~ maintain a current business license required by the municipality or county;

~~([d]c)~~ have at least one qualified and approved Third-party Examiner;

~~([e]d)~~ require that Third-party Examiners:

(i) administer at least ten CDL skills tests in the year preceding the renewal of the Third-party Tester application; or

(ii) be observed by the division representative administering at least one CDL skills test in the proper manner;

~~([f]e)~~ name a designated representative(s) that will sign signature cards for new employees and withdraw the authority of employees that are no longer certified to test for the company;

~~([g]f)~~ not be permitted to engage the service of an employee of the division as an examiner, agent, or employee[-]; and

(g) submit a fingerprint card and a check or money order to the division, made payable to the Utah Bureau of Criminal Identification, to cover the cost associated with a criminal history background check and FBI check.

(5) Certification shall be valid for a period of ~~[twelve]~~12 months. No later than one month prior to expiration of certification, the Third-party Tester shall submit a renewal application to the division.

R708-21-5. Requirements for Application, Certification and Renewal of Certification for a Third-party Examiner.

(1) An application for an original or renewal Third-party Examiner certification shall be made on a form furnished by the division, and shall include the following:

- (a) name of Third-party Tester;
- (b) address of Third-party Tester;

(c) name of Third-party Examiner;
 (d) residential address of Third-party Examiner;
 (e) telephone number and email address of Third-party Examiner[-]; and

(f) signature and date of Third-party Examiner.

(2) All Third-party Examiners shall be sponsored by a Third-party Tester, who shall be responsible for all tests administered by the Third-party Examiner.

(3) An applicant for Third-party Examiner shall comply with the following requirements:

(a) have and maintain a valid driver's license with no suspensions, revocations, cancellations or disqualifications within one year prior to application;

(b) have at least three years driving experience;

(c) submit ~~[to the division]~~ a fingerprint card and a check or money order to the division, made payable to the Utah Bureau of Criminal Identification, to cover the cost associated with a criminal history background check and FBI check;

(d) have the physical strength and agility to physically enter and exit commercial vehicles unassisted;

(e) complete the approved training by the division and pass the final examination with a minimum score of 80%. Third-party Examiners need to be aware that any training they receive from private or other organizations may require a training fee;

(f) schedule a time, within one year of training with the division representative, to demonstrate his/her ability to perform the skills tests according to ~~[49 C.F.R. 383 subpart (g) and (h)]~~ 49 CFR 383.75 (g) and 49 CFR 383.75 (h), in an actual test setting. Upon approval from the division representative, the examiner may begin testing. Failure to comply with this portion of this certification process will result in the examiner having to complete the approved training as described in R708-21-5 (3)(e); and

(g) upon completion of training, Third-party Examiners shall be issued a certificate of completion. The division will file and maintain a copy of the certificate of completion in the Third-party Tester file.

(4) All authorized Third-party Examiners shall be required to sign an agreement verifying that they have read and understand the required rules and training materials.

(5) Upon application for recertification a Third-party Examiner shall meet the requirements outlined in ~~[subsections 1 through 4]~~ Subsections R708-21-5(1) through R708-21-5(4) in addition to the following:

(a) administer at least ten CDL skills tests to different applicants in the year preceding the renewal of the Third-party Tester application; or

(b) be observed by the division representative administering at least one CDL skills tests in accordance with ~~[49 C.F.R. 383 subpart (g) and (h)]~~ 49 CRF 383.75(g) and 49 CFR 383.75(h).

R708-21-6. Requirements for Designated Representative.

(1) A designated representative is responsible for overseeing the Third-party Tester and Examiners. The designated representative shall be the liaison between division representatives and Third-party Examiners.

(2) A designated representative shall:

(a) maintain personnel files for all Third-party Examiners assigned to their company;

(b) notify the division in writing within 10 calendar days of any change to a Third-party Examiner driving status;

(c) maintain and update all Third-party Examiners signature cards;

(d) notify the division in writing within 30 calendar days of a change to a Third-party Tester or Examiners address;

(e) make application for renewal of a Third-party Tester certificate at least one month prior to expiration date;

(f) maintain security of all CDL score sheets and personal data noted on the CDL score sheets;

(g) ensure all CDL test score sheets have been destroyed after 3 years.

R708-21-7. Skills Test Administration.

(1) Skills tests shall be conducted strictly in accordance with the provisions of these requirements and with current test instructions provided by the division ~~[and part 49 C.F.R. 383]~~ 49 CFR 383.75, and the AAMVA training manual.

(a) Such instructions include information regarding:

(i) skills test content;

(ii) route selection/revision;

(iii) test forms;

(iv) examiner procedures; and

(v) administrative procedures.

(2) Tests shall be conducted:

(a) on test routes approved by the division;

(b) in a vehicle that is representative of the class and type of vehicle for which the CDL applicant seeks to be licensed, and for which the Third-party Examiner is qualified to test; and

(c) by using division approved content, forms and scoring procedures.

(3) Third-party Examiners shall test and certify only those CDL applicants who hold a valid Commercial Driver Instruction Permit and shall ensure adherence to the class, endorsements, restrictions and expiration dates listed on the permit.

(4) All Third-party Testers and Third-party Examiners shall schedule the skills tests on the division's web application at least 48 hours prior to administering the CDL Skills test.

R708-21-8. Processing CDL Skills Test.

(1) The division shall provide training and allow access to the divisions web service application used for scheduling skills tests and recording the results of the tests to:

(a) a certified Third-party Examiner; or

(b) a representative of the Third-party Tester that has met the requirements of R708-21-5(3)(c) ~~[upon approval by the division]~~ and the division has reviewed and approved the results of the fingerprint and FBI background checks.

(2) The division shall supply an approved CDL skills test score sheet to authorized Third-party Testers for use when administering skills tests. The score sheet shall be filled out correctly and signed by both the Third-party Examiner and driver[-].

(a) Third-party Testers shall maintain all skill test score sheets for a period of three years after which they must be immediately destroyed by means of incineration or shred.

(b) Third-party Testers are responsible to ensure the security of all CDL score sheets and personal data collected on the CDL score sheets and the applicant.

(3) The score sheet shall include the following information:
 (a) applicant's name and phone number;
 (b) applicant's Utah Driver License number;
 (c) description of the vehicle in which test was taken, including optional equipment;
 (d) Gross Vehicle Weight Rating (GVWR);
 (e) vehicle and trailer license plate numbers;
 (f) class of license, restriction and/or endorsement tested for;
 (g) start time, end time, and date test was administered;
 (h) authorized Third-party Examiner name and assigned number;

(i) applicant's signature and date; and
 (j) authorized Third-party Examiner's signature and date.
 (4) The Third-party Examiner shall document all skills test results on the score sheet.

(5) The Third-party Examiner shall provide the completed skills test score sheet to the driver in a sealed envelope.

(6) The Third-party Examiner or Third-party Tester shall not withhold a passed skills test score sheet ~~to~~ from an applicant that has successfully met the testing requirements.

(7) The Third-party Examiner shall enter the skills test results on the driver's record through the division web application within 48 hours of the test.

(8) Test results are only acceptable if testing was completed within the previous ~~6~~ six months.

(9) The division shall accept the score sheet as proof the driver has completed one or more skills tests.

(10) As a result of the driver not completing or passing the skills test within ~~6~~ six months of the original failed or incomplete test, the Third-party Examiner shall send the score sheet directly to the division representative.

R708-21-9. Inspection and Audit Process.

(1) During inspections the representative(s) designated by the Third-party Tester shall cooperate with the ~~D~~ division or ~~F~~ federal representative with respect to on-site inspections.

(2) On-site inspections shall be conducted to verify compliance with FMCSA guidelines and ~~this rule~~ R708-21.

(3) The Third-party Tester shall maintain accurate driver testing records and must be able to furnish them upon request.

(4) Check rides may be made by any designated division representative to verify compliance with the ~~S~~ state and ~~F~~ federal minimum testing standards and may consist of:

(a) ~~the~~ a division employee taking the skills test as administered by the Third-party Tester as if such employee was a test applicant;

(b) the division administering the skills tests to a sample of drivers who were previously examined by the Third-party Testers to determine if the check ride results are consistent with the Third-party Tester results; and

(c) the division co-score along with the Third-party Examiner during CDL skills test to compare pass/fail.

(5) A division representative shall prepare a written report of all inspections, check rides and audits. A copy of these reports shall be maintained by the division for ten years.

(6) The division shall send a renewal letter to the Third-party Tester indicating any problems, concerns or violations found

during the audit with an action plan detailing how to correct the items identified.

R708-21-10. Notification of Accident.

If any Third-party Examiner is involved in an accident during the course of administering a skills test, the Examiner shall notify the division in writing within five days of the accident. The Third-party Examiner shall submit to the division a copy of the investigating law enforcement officer's accident report as soon as it is available.

R708-21-11. Advertising.

(1) No advertisement shall indicate in any way that a program can issue or guarantee the issuance of a CDL, or imply that the program can in any way influence the division in the issuance of a CDL, or imply that preferential or advantageous treatment from the division can be obtained.

(2) No Third-party Tester or Third-party Examiner shall solicit business directly or indirectly, or display or distribute any advertising material within 1,500 feet of a building in which driver licenses are issued to the public.

(3) No Third-party Tester or Third-party Examiner shall use any ~~D~~ department or ~~D~~ division logos, letterhead, or license recreations as part of their advertising.

R708-21-12. Grounds for Revocation, Probation or Denial to Issue or Renew Third-party Tester or Third-party Examiner Certification.

(1) A Third-party Tester or Third-party Examiner may be revoked, denied or placed on probation for any of the following reasons:

(a) ~~F~~ failure to comply with any of the provisions of ~~49 Part 383 of the Code of Federal Regulations~~ 49 CFR 383.75;

(b) ~~F~~ failure to comply with any of the provisions of ~~Title Section 53-3-407~~ UCA;

(c) ~~F~~ failure to comply with any of the provisions of ~~this rule~~ R708-21;

(d) ~~F~~ falsification of any records or other required information relating to the Third-party Tester program;

(e) ~~E~~ commission of any act that compromises the integrity of the Third-party Tester Program Commercial Motor Vehicle Safety Act, 1986;

(f) failure to permit and cooperate with the ~~D~~ division or ~~F~~ federal representative to inspect the testing routes, testing sites or score sheets issued to the Third-party Tester; and

(g) ~~E~~ conviction of any crime involving dishonesty, deception, ~~or~~ theft, or an act involving moral turpitude by a Third-party Tester or Third-party Examiner~~;~~.

(2) In determining whether revocation, denial or probation of a certification is appropriate, the division shall consider the third-party tester or third-party examiners involvement and severity of the violation(s).

(3) If a Third-party Examiner certificate is revoked under the emergency provisions of ~~UAPA, s~~ Section 63G-4-502, and the Third-party Tester certificate is valid, the Third-party Tester may continue conducting CDL driving skills tests provided:

(a) ~~F~~ the Third-party Examiner is no longer employed by the Third-party Tester;

(b) ~~[A]~~a Third-party Examiner with a valid certificate is employed by the Third-party Tester;

(c) ~~[F]~~testing shall not compromise public safety; and

(d) ~~[F]~~the Third-party Tester is found to not knowingly have allowed a Third-party Examiner to conduct tests that violate ~~[Utah and or Federal laws or this rule]~~state or federal laws, or any provision of R708-21.

(4) Following cancellation of the Third-party Tester certification, the Third-party Tester shall promptly return all CDL skills test documents. Documentation includes at a minimum:

(a) CDL Examiner manual;

(b) ~~[score sheets (both used and blank)]~~used and blank score sheets; and

(c) Third-party Examiner certificates.

R708-21-13. Adjudicative Proceedings.

(1) All adjudicative proceedings ~~[set forth in this section]~~ shall be conducted informally as provided in Section 63G-4-202.

(2) The division shall initiate agency action against a Third-party Tester or Third-party Examiner with a notice of agency action in accordance with Section 63G-4-201.

(3)(a) A Third-party Tester or Third-party Examiner who receives a notice of agency action indicating that the division intends to deny, suspend or revoke a permit or a certificate, may request a hearing by filing a written request for hearing with the division within ~~[40]~~ten calendar days from the date of the notice of agency action.

(b) If a timely request for hearing is filed, the agency action shall be stayed until the division's hearing officer issues a written decision.

(c) A hearing shall be held before the division's hearing officer within 30 calendar days of the day that the division receives the written request for hearing, unless agreed to by the parties.^[2]

(d) At the hearing, Third-party Tester or Third-party Examiner shall have an opportunity to demonstrate why the division should not take agency action.

(e) The hearing officer shall issue a written decision within ~~[40]~~ten business days of the hearing in accordance with Section 63G-4-203.

(4) The written decision of the hearing officer shall constitute final agency action and is subject to judicial review in accordance with Section 63G-4-402.

KEY: motor vehicle safety, inspections

Date of Enactment or Last Substantive Amendment: May 14, 2013

Notice of Continuation: January 20, 2012

Authorizing, and Implemented or Interpreted Law: 53-3-104; 53-3-407.1; 49 CFR 383.75

**Transportation, Motor Carrier
R909-19-7
Towing Notice Requirements**

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 37624

FILED: 05/14/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this emergency rule is to establish the Utah Consumer Bill of Rights Regarding Towing and to establish guidelines for distributing it to consumers, as required by H.B. 115 (2013 General Session).

SUMMARY OF THE RULE OR CHANGE: The proposed amendment establishes guidelines for providing to consumers, and outlines the information to be included in, the Utah Consumer Bill of Rights Regarding Towing, such as the maximum rates a tow truck motor carrier may charge, verification of reporting to the Impound Vehicle System (IVS), compliance with Federal Motor Carrier Safety Regulations, the consumer's right to file a complaint with the Motor Carrier Division of the Utah Department of Transportation, and directions to web sites where additional information may be found.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 72-9-603(7)

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

JUSTIFICATION: H.B. 115 (2013) requires the Utah Department of Transportation to establish a Utah Consumer Bill of Rights Regarding Towing, and requires tow truck operators to provide a copy to the owner whose vehicle was removed. The bill goes into effect 05/14/2013. By enacting this emergency rule amendment, the department will be in compliance with the requirements of the bill, and it will provide the tow truck operators guidelines and the information they are required to provide to consumers.

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There may be an initial increase in the number of consumer complaints the Motor Carrier Division is required to investigate, but the additional time and costs will be absorbed within existing budgets. In the long run, with increased compliance with the rule, the division anticipates a reduction in the number of complaints and the time spent investigating them.

♦ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local governments because the Motor Carrier Division regulates tow truck motor carriers and enforces this rule.

♦ **SMALL BUSINESSES:** Small businesses that are tow truck motor carriers will incur the cost of printing copies of the Utah Consumer Bill of Rights Regarding Towing to provide to consumers. If a business ordered 1,000 copies at \$0.15 per copy, the cost would be \$150.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities because the Motor Carrier Division regulates tow truck motor carriers and enforces this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In order to comply with this rule, tow truck motor carriers will incur the cost of printing copies of the Utah Consumer Bill of Rights Regarding Towing to provide to consumers. If a business ordered 1,000 copies at \$0.15 per copy, the cost would be \$150.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The only anticipated fiscal impact on businesses from this amendment is the costs tow truck motor carriers will incur to print copies of the Utah Consumer Bill of Rights Regarding Towing to provide to consumers as required by H.B. 115 (2013).

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

TRANSPORTATION
MOTOR CARRIER
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:

◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cnewman@utah.gov

EFFECTIVE: 05/14/2013

AUTHORIZED BY: Carlos Braceras, Executive Director

R909. Transportation, Motor Carrier.

R909-19. Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification.

R909-19-7. Towing Notice Requirements.

(1) All non-consent police generated and non-consent non-police generated tows conducted by Tow Truck Motor Carriers must input required information in electronic form on the Division of Motor Vehicles Utah State Tax Commission's website, at "<https://secure.utah.gov/ivs/ivs>" as required by 41-6a-1406(11).

(a) Tow Truck Motor Carriers may charge an administrative fee up to but not exceeding \$30.00 per vehicle notification for reporting non-consent tows to the Department of Motor Vehicles.

(2) Tow Truck Motor Carriers must notify the local enforcement agency having jurisdiction over the area from where the vehicle, vessel, or outboard motor was removed on all non-consent non-police generated tows immediately upon arrival at the impound or storage yard.

(a) For tows conducted on vehicles, vessels, and outboard motors and the owner information does not appear in the IVS or TLR (Title License Registration) systems, a Tow Truck Motor Carrier has met this requirement if they can provide proof that a certified letter has been sent to the Utah State Tax Commission Division of Motor Vehicle or the appropriate state where the vehicle, vessel, and outboard motor is registered, within two business days requesting the needed information to send the letter.

(3) If required notifications to the Division of Motor Vehicles and local law enforcement is not completed as required by Sections 41-6a-1406 and 72-9-603, the Tow Truck Motor Carrier or operator may not collect any fees associated with the removal or begin charging storage fees as authorized under Sections 41-6a-1406 and 72-9-603 until the removal has been reported to the Motor Vehicle Division and the local law enforcement agency.

(4) If notification to the last known owner and lien holder is not made as required by this rule, the Tow Truck Motor Carrier may be subject to penalties as outlined in this rule.

(5) Tow Truck motor carrier or the tow truck driver must provide a copy of the Utah Consumer Bill of Rights Regarding Towing upon first contact to the owner of a vehicle, vessel, or outboard motor that was towed, before payment of fees can be collected. The tow truck motor carrier must be able to verify that the consumer received their copy of the Utah Consumer Bill of Rights Regarding Towing.

(6) The Utah Consumer Bill of Rights Regarding Towing shall contain the following language and information:

(a) The consumer has the right to know they are being charged an appropriate fee. Towing fees are established by the Utah Department of Transportation under Utah Code Annotated Section 72-9-603 and Utah Administrative Code R909-19. See <http://www.rules.utah.gov/publicat/code/r909/r909-019.htm>

(i) Non Consent Police Generated; Tow fee - up to \$145.00 per hour; Storage fee - up to \$25.00 per day; Administrative fee - up to \$30.00; Fuel Surcharge - percentage of tow fee; See R909-19-14 for specific fuel surcharge rate.

(ii) Non-Consent (Personal Property) Non-Police Generated; Tow fee - up to \$145.00 Drop Fee (if not towed) \$72.50; Storage fee - up to \$25.00 per day; Administrative fee - up to \$30.00; Fuel Surcharge - percentage of tow fee; See R909-19-14 for specific fuel surcharge rate.

(b) All non-consent tows must be reported to the Utah Motor Vehicle Division via the Impound Vehicle System before payment can be collected as per Utah Code Annotated Sections 41-6a-1406 and 72-9-603, verification can be done at www.tow.utah.gov.

(i) The consumer has a right to receive documentation from the tow truck motor carrier showing the date and time storage began.

(c) The tow truck motor carrier, driver(s) and vehicle(s) must comply with Federal Motor Carrier Safety Regulations, www.udot.utah.gov, click on the Motor Carrier Division link.

(d) A consumer has the right to file a complaint alleging:

(i) Overcharges;

(ii) Inadequate certification for the driver, truck or company, and;

(iii) Violations of the Federal Motor Carrier Safety Regulations, Utah Code Annotated or Utah Administrative Code.

(e) Complaints may be filed online with the Utah Department of Transportation at www.udot.gov by clicking on the Motor Carrier Division link, then by clicking on towing/tow trucks link.

KEY: safety regulations, trucks, towing, certifications

Date of Enactment or Last Substantive Amendment: May 14, 2013

Notice of Continuation: September 19, 2011

**Authorizing, and Implemented or Interpreted Law: 41-6a-1404;
41-6a-1405; 41-6a-1406; 53-1-106; 53-8-105; 72-9-601; 72-9-602;
72-9-603; 72-9-604; 72-9-301; 72-9-303; 72-9-701; 72-9-702; 72-9-
703**

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended 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 upon filing.

NOTICES are governed by Section 63G-3-305.

Education, Administration **R277-104** ADA Complaint Procedure

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37626
FILED: 05/15/2013

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: 28 CFR 35.107 requires a public entity that employs 50 or more persons to adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited under the Americans with Disabilities Act (ADA) and requires that at least one employee coordinate the efforts of the public entity to comply with and carry out its responsibilities under the ADA.

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 THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides procedures for non-Utah State Office of Education and non-Utah State Office of Rehabilitation employees to file complaints under federal ADA 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 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: 05/15/2013

Education, Administration **R277-436** Gang Prevention and Intervention Programs in the Schools

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37627
FILED: 05/15/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the Utah State Board of Education to adopt rules in accordance with its responsibilities and Subsection 53A-17a-166(1)(b) appropriates funds to be used for Gang Prevention and Intervention 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: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides standards and procedures for distributing funding for gang prevention and intervention programs in public schools. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carol Lear 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: 05/15/2013

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 THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides for distribution of the Utah State Office of Education's share of the Substance Abuse Prevention Account. 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 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: 05/15/2013

Education, Administration
R277-460
Distribution of Substance Abuse
Prevention Account

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 37628
FILED: 05/15/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53A-13-102 directs the Utah State Board of Education to adopt rules providing for instruction on the harmful effects of controlled substances and Section 51-9-405 provides for funding from the Substance Abuse Prevention Account to be allocated to the Utah State Office of Education for substance abuse prevention and education.

Education, Administration
R277-491
School Community Councils

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 37629
FILED: 05/15/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) permits the Utah State Board of Education to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides standards and procedures for school community council operations, plan approval, oversight, and training. 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 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: 05/15/2013

Education, Administration
R277-614
Athletes and Students with Head Injuries

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 37630
FILED: 05/15/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the Utah State Board of Education to adopt rules in accordance with its responsibilities.

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 THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides procedures for local education agencies to adopt

and enforce a head injury policy for students participating in sporting events. 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 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: 05/15/2013

Health, Administration
R380-250
HIPAA Privacy Rule Implementation

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 37596
FILED: 05/06/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-5 grants the Department of Health the power to adopt, amend, or rescind rules that shall have the force and effect of law. Section 26-1-17 also requires the Executive Director to comply with federal law by implementing standards of employee conduct that safeguard protected health information (PHI).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it sets forth the responsibility of covered programs to safeguard health information in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). It will also continue this rule to allow individuals under HIPAA

to access their PHI, request to amend their PHI, and to request an accounting of disclosures.

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

HEALTH
ADMINISTRATION
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 by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 05/06/2013

reimbursement, cost sharing, and the fair hearings process for providers and enrollees within the Children's Health Insurance Program.

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

HEALTH
CHILDREN'S HEALTH INSURANCE PROGRAM
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 by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 05/08/2013

**Health, Children's Health Insurance
Program
R382-1
Benefits and Administration**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37608
FILED: 05/08/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-5 grants the Department of Health the power to adopt, amend, or rescind rules that shall have the force and effect of law. In addition, Section 26-40-103 requires the Department to administer the Children's Health Insurance Program by rule and to implement program benefits.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it describes benefits, limitations, enrollment,

**Health, Children's Health Insurance
Program
R382-10
Eligibility**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37610
FILED: 05/09/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-5 grants the Department of Health the power to adopt, amend, or rescind rules that shall have the force and effect of law. In addition, Section 26-40-103 requires the Department to administer the Children's Health Insurance Program (CHIP) by rule and to implement eligibility requirements.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In May 2011, the Department received a written comment after it filed an amendment to implement H.B. 260, from the 2010 General Session. This bill allows households to use adjusted gross income as reported to the Tax Commission for eligibility in CHIP. The advocacy group which issued the comment argued that the rule change was too restrictive because it expressly excluded CHIP recipients from the gross income allowance if they received

other medical assistance. The group further stated that the restriction did not reflect legislative intent.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department agreed that the rule should not be more restrictive than the statute. The Department, therefore, filed a change to the proposed rule to remove the restriction on CHIP recipients, and the new change became effective on 08/22/2011. The Department will continue this rule because it sets forth eligibility requirements for children to receive CHIP coverage.

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

HEALTH
CHILDREN'S HEALTH INSURANCE PROGRAM
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 by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 05/09/2013

Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-53
Eyeglasses Services

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37591
FILED: 05/03/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-18-3 requires the Department to implement by rule vision services for eligible Medicaid recipients. In addition, 42 CFR 441.56 requires the Department to provide eyeglasses to individuals who are eligible under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it sets forth eligibility requirements, service coverage, and reimbursement for providers and recipients of eyeglasses services.

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 05/03/2013

Insurance, Administration
R590-219
Credit Scoring

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37600
FILED: 05/07/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3)(a) authorizes the commissioner to make rules to implement the provisions of Title 31A. Subsection 31A-22-320(3) authorizes the commissioner to write rules to regulate the use of credit information. The rule sets minimum standards for property and casualty insurers doing private passenger automobile business in Utah that use credit history or an insurance score as part of their underwriting criteria or rating plans.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no written comments regarding this rule within the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed to regulate automobile insurance companies in the way they use an insured's credit score. One of the main reasons for this rule and the law was to disallow insurers from using a credit score as the sole reason to cancel an insured. The law and rule require there to be risk-related factors before increasing an insured's premium or canceling them. Since the creation of this law and rule, the department has received fewer and fewer complaints related to misuse of credit scores. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Todd Kiser, Commissioner

EFFECTIVE: 05/07/2013

Insurance, Administration
R590-222
Life Settlements

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 37598
FILED: 05/07/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3) authorizes the insurance commissioner to write rules to

implement the provisions of the insurance code, in this case, specific requirements found in Subsection 31A-36-119(3). These requirements specify that the department may adopt rules to establish licensing requirements and standards for life settlement providers and producers. The rule implements procedures for: licensure of life settlement providers and producers; providers and reports; disclosures; advertising; reporting of fraud; prohibited practices; standards for life settlement payments; and procedures to request the verification of coverage.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: During the past five years, three comment periods were provided for proposed changes made to this rule. One comment was received regarding the change under DAR No. 32579. The comment was from the Life Insurance Settlement Association. They were opposed to the increase in the bond threshold from \$50,000 to \$250,000, which was from the National Association of Insurance Commissioner's Model rule that was approved by the insurance industry in 2009. The Association expressed concern that information the department was collecting could be accessed with a GRAMA request. The language they were concerned with was not new language plus it was proprietary and non-public so would not be available via a GRAMA request.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule provides the requirements and explanations regarding the business of life settlements, including, licensing, annual reports, payments, disclosures, reasonable payments, verification of coverage, advertising, fraud reporting, prohibited practices and form filing. All are necessary for the proper regulation of this product in the marketplace to protect the consumer. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Todd Kiser, Commissioner

EFFECTIVE: 05/07/2013

Insurance, Administration
R590-223

Rule to Recognize the 2001 CSO
Mortality Table for Use in Determining
Minimum Reserve Liabilities and
Nonforfeiture Benefits

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37599
FILED: 05/07/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3) authorizes the commissioner to make rules to implement the provisions of the insurance code. Subsection 31A-17-402(1) authorizes the commissioner to adopt rules specifying the liabilities to be reported by an insurer in an annual statement, as well as the methods of valuing the liabilities. Subsection 31A-22-408(11) authorizes the commissioner to adopt rules interpreting, describing, and clarifying the application of the nonforfeiture law. The rule recognizes, permits and prescribes the use of the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in accordance with Sections 31A-17-504 and 31A-22-408, and Section R590-198-5.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is a part of statutory accounting requirements. It prescribes a mortality table to be used for the valuation and nonforfeiture for life insurance. It establishes reserving standards consistent with that recommended by the National Association of Insurance Commissioner's (NAIC) Accounting Practices and Procedures Manual. Repeal of the rule would adversely impact insurance companies, as well as consumers. If the rule is withdrawn it will make life insurance less affordable. Therefore, this rule should be continued.

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

INSURANCE
ADMINISTRATION

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Todd Kiser, Commissioner

EFFECTIVE: 05/07/2013

Natural Resources, Wildlife Resources
R657-34

Procedures for Confirmation of
Ordinances on Hunting Closures

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37592
FILED: 05/06/2013

**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 23-14-1(3)(b) states: "Communities may close areas to hunting for safety reasons after confirmation by the Wildlife Board." This rule provides the standards and procedures by which a political subdivision within a community may obtain confirmation from the Wildlife Board to close an area to hunting for reasons of safety.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-34 were received since 05/10/2008, when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-34 is necessary to provide the procedures for a political subdivision within a community to obtain confirmation from the Wildlife Board to close an area to hunting for reasons of safety. The provisions adopted in this rule are effective. Continuation of this rule is necessary to provide the standards and procedures for obtaining confirmation from the Wildlife Board.

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 by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Gregory Sheehan, Director

EFFECTIVE: 05/06/2013

Natural Resources, Wildlife Resources **R657-37**

Cooperative Wildlife Management Units for Big Game or Turkey

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37593
FILED: 05/06/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Section 23-23-3, the Wildlife Board is authorized to provide the standards and procedures applicable to Cooperative Wildlife Management units organized for the hunting of big game or turkey.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-37 have been received since 05/10/2008, when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-37 is established for setting the standards and procedures applicable to Cooperative Wildlife Management units for big game or turkey. The provisions adopted in this rule are effective in increasing wildlife resources, providing income to landowners, providing the general public access to private and public lands for hunting big game or turkey, creating satisfying hunting opportunities and providing adequate protection to landowners who open

their lands for hunting. Continuation of this rule is necessary for success with this program.

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 by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Gregory Sheehan, Director

EFFECTIVE: 05/06/2013

Natural Resources, Wildlife Resources **R657-42**

Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37594
FILED: 05/06/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-19-1 and 23-19-38, the Division under authorization from the Wildlife Board is required to issue wildlife documents along with providing the standards and procedures for the exchange of permits, surrender of wildlife documents, refund of wildlife documents, reallocation of permits and assessment of late fees.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-42 have been received since 05/10/2008, when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-42 is established for setting the standards and procedures for exchanges, surrenders,

refunds and reallocations of wildlife permits. The provisions adopted in this rule are effective in maintaining a set practice of guidelines assuring continuity and consistency in handling circumstances pertaining to exchanges, surrenders, refunds, reallocations and late fees. Continuation of this rule is necessary for success with this program.

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 by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Gregory Sheehan, Director

EFFECTIVE: 05/06/2013

**Natural Resources, Wildlife Resources
 R657-45
 Wildlife License, Permit, and Certificate
 of Registration Forms**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 37595
 FILED: 05/06/2013

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-14-19 and 23-19-2, the Wildlife Board is authorized and required to prescribe the form of a wildlife license, permit, and certificate of registration.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-45 have been received since 05/10/2008, when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-45 is established for prescribing the forms of a wildlife license, permit, and certificate of

registration. The provisions adopted in this rule are effective in prescribing the form of a license, permit, and certificate of registration. Continuation of this rule is necessary for prescribing the form of a license, permit, and certificate of registration.

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 by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Gregory Sheehan, Director

EFFECTIVE: 05/06/2013

**Public Safety, Driver License
 R708-30
 Motorcycle Rider Training Schools**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 37613
 FILED: 05/13/2013

**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 53-3-903(1) directs the Division to make rules for the Motorcycle Rider Education Act. Subsections 53-3-903(5) and (6) establish that the course curriculum shall meet or exceed the national standard prescribed by the Motorcycle Safety Foundation and approve instructors for the program that have met the teaching requirements of the Motorcycle Safety Foundation or other nationally recognized organizations. Course completion certificates shall be issued to persons who successfully complete the requirements of the course.

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 public comment has been received in reference to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE

RULE, IF ANY: This rule is necessary to continue the standards and guidelines which assist motorcycle training schools and the division in the operating of the motorcycle rider education program. Therefore, this rule should be continued.

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:
♦ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Nannette Rolfe, Director

EFFECTIVE: 05/13/2013

End of the Five-Year Notices of Review and Statements of Continuation Section

**NOTICES OF
LEGISLATIVE NONREAUTHORIZATION**

Section 63G-3-502 provides that "every agency rule that is in effect on February 28 of any calendar year expires on May 1 of that year unless it has been reauthorized by the Legislature." To do this, the Legislature's Administrative Rules Review Committee prepares omnibus legislation each year. As part of this legislation, the Legislature may elect not to reauthorize a rule or a part of a rule down to the complete paragraph level. When this occurs, the rule or part of a rule is removed from the Code. The list below represents rules that the Legislature has elected not to reauthorize.

Legislative nonreauthorization of administrative rules is governed by Section 63G-3-502.

Insurance, Title and Escrow
Commission
R592-2-7
Imposition of Penalties

LEGISLATIVE NONREAUTHORIZATION

DAR FILE NO.: 37588

FILED: 05/02/2013

SUMMARY: Subsection R592-2-7(2) was not reauthorized under H.B. 256 (2013 General Session). Therefore, this subsection is removed from the Utah Administrative Code as of 05/01/2013.

EFFECTIVE: 05/01/2013

End of the Notices of Legislative Nonreauthorization Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their rules effective and enforceable after publication in the Utah State Bulletin. In the case of Proposed Rules or Changes in Proposed Rules with a designated comment period, the law permits an agency to file a notice of effective date any time after the close of comment plus seven days. In the case of Changes in Proposed Rules with no designated comment period, the law permits an agency to file a notice of effective date on any date including or after the thirtieth day after the rule's publication date. If an agency fails to file a Notice of Effective Date within 120 days from the publication of a Proposed Rule or a related Change in Proposed Rule the rule lapses and the agency must start the rulemaking process over.

Notices of Effective Date are governed by Subsection 63G-3-301(12), 63G-3-303, and Sections R15-4-5a and 5b.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal & Reenact
REP = Repeal

Commerce

Real Estate
No. 37393 (AMD): R162-2f.Real Estate Licensing and Practices Rules
Published: 04/01/2013
Effective: 05/08/2013

No. 37394 (AMD): R162-2f-403.Trust Accounts
Published: 04/01/2013
Effective: 05/08/2013

Health

Disease Control and Prevention, Epidemiology
No. 37345 (AMD): R386-702.Communicable Disease Rule
Published: 03/01/2013
Effective: 05/15/2013

Human Services

Services for People with Disabilities
No. 37163 (AMD): R539-3.Rights and Protections
Published: 01/15/2013
Effective: 05/10/2013

No. 37163 (CPR): R539-3.Rights and Protections
Published: 04/01/2013
Effective: 05/10/2013

Insurance

Administration
No. 37379 (AMD): R590-102-17.Dedicated Fees
Published: 03/15/2013
Effective: 05/14/2013

Judicial Performance Evaluation Commission

Administration
No. 37383 (AMD): R597-1.General Provisions
Published: 04/01/2013
Effective: 05/14/2013

No. 37382 (AMD): R597-3.Judicial Performance Evaluations
Published: 04/01/2013
Effective: 05/14/2013

End of the Notices of Rule Effective Dates Section

**RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2013 through May 15, 2013. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules 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).

Questions regarding the index and the information it contains should be addressed to 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 (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Facilities Construction and Management</u>					
R23-13	State of Utah Parking Rules for Facilities Managed by the Division of Facilities and Construction and Management	37357	5YR	02/20/2013	2013-6/49
R23-22	General Procedures for Acquisition and Selling of Real Property	37358	5YR	02/20/2013	2013-6/49
<u>Finance</u>					
R25-5	Payment of Per Diem to Boards	37521	5YR	04/15/2013	2013-9/29
R25-6	Relocation Reimbursement	37522	5YR	04/15/2013	2013-9/29
R25-7	Travel-Related Reimbursements for State Employees	37523	5YR	04/15/2013	2013-9/30
R25-8	Overtime Meal Allowance	37524	5YR	04/15/2013	2013-9/30
<u>Fleet Operations</u>					
R27-3	Vehicle Use Standards	36949	AMD	03/07/2013	2012-22/11
<u>Purchasing and General Services</u>					
R33-3-3	Small Purchases	37633	EMR	05/15/2013	Not Printed
AGRICULTURE AND FOOD					
<u>Animal Industry</u>					
R58-6	Poultry	37248	R&R	03/25/2013	2013-4/6
R58-18	Elk Farming	37246	AMD	03/25/2013	2013-4/12
R58-19	Compliance Procedures	37247	AMD	03/25/2013	2013-4/13
R58-21	Trichomoniasis	36962	AMD	01/04/2013	2012-22/16
<u>Horse Racing Commission (Utah)</u>					
R52-7	Horse Racing	37420	EMR	03/20/2013	2013-8/47
<u>Plant Industry</u>					
R68-5	Grain Inspection	37249	5YR	02/05/2013	2013-5/189
R68-14	Quarantine Pertaining to Gypsy Moth - Lymantria Dispar	37445	5YR	03/27/2013	2013-8/53
<u>Regulatory Services</u>					
R70-310	Grade A Pasteurized Milk	37027	AMD	01/29/2013	2012-23/6
R70-320-18	Transport Tanks, Operators	36915	AMD	01/29/2013	2012-21/8
R70-330	Raw Milk for Retail	36914	AMD	01/29/2013	2012-21/9
R70-330	Raw Milk for Retail	37620	EMR	05/14/2013	Not Printed
ALCOHOLIC BEVERAGE CONTROL					
<u>Administration</u>					
R81-1-31	Duties of the Commission Subcommittees	37611	EMR	05/13/2013	Not Printed
R81-2-12	Store Site Selection	37365	AMD	04/30/2013	2013-6/5

R81-4A-2	Application	37367	AMD	04/30/2013	2013-6/5
R81-4B-2	Application	37368	AMD	04/30/2013	2013-6/6
R81-4C-2	Application	37369	AMD	04/30/2013	2013-6/7
R81-4D-2	Application	37370	AMD	04/30/2013	2013-6/8
R81-4E-2	Application	37371	AMD	04/30/2013	2013-6/9
R81-4F-2	Application	37372	AMD	04/30/2013	2013-6/10
R81-5-2	Application	37373	AMD	04/30/2013	2013-6/11
R81-9-1	Application	37377	AMD	04/30/2013	2013-6/12
R81-10A-3	Application	37374	AMD	04/30/2013	2013-6/13
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CAPITOL PRESERVATION BOARD (STATE)

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R994-305	Collection of Contributions	37066	AMD	01/08/2013	2012-23/52
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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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	37125	R612-200	NEW	02/25/2013	2013-2/62

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	37237	R307-355-5	NSC	02/15/2013	Not Printed

agent of the state

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	37146	R277-502	AMD	02/21/2013	2013-2/10
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	37507	R277-498-4	NSC	04/29/2013	Not Printed
	37147	R277-517	NEW	02/21/2013	2013-2/15
	37359	R277-517-5	NSC	03/15/2013	Not Printed
	37399	R277-518	5YR	03/12/2013	2013-7/61
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	37396	R156-82	NSC	04/01/2013	Not Printed
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	37409	R426-2	EMR	03/14/2013	2013-7/55

	37398	R426-6	EXD	03/01/2013	2013-7/71
	37408	R426-6	EMR	03/14/2013	2013-7/59
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	36725	R307-340	CPR	02/01/2013	2013-1/48
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	36727	R307-345	CPR	02/01/2013	2013-1/54
	36728	R307-346	NEW	02/01/2013	2012-19/69
	36728	R307-346	CPR	02/01/2013	2013-1/57
	36729	R307-347	NEW	02/01/2013	2012-19/71
	36729	R307-347	CPR	02/01/2013	2013-1/59
	36730	R307-348	NEW	02/01/2013	2012-19/73
	36730	R307-348	CPR	02/01/2013	2013-1/61
	36731	R307-349	NEW	02/01/2013	2012-19/74
	36731	R307-349	CPR	02/01/2013	2013-1/63
	36732	R307-350	NEW	02/01/2013	2012-19/76
	36732	R307-350	CPR	02/01/2013	2013-1/65
	36734	R307-352	NEW	02/01/2013	2012-19/84
	36734	R307-352	CPR	02/01/2013	2013-1/73
	36735	R307-353	NEW	05/01/2013	2012-19/86
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	36735	R307-353	CPR	05/01/2013	2013-7/46
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Judicial Performance Evaluation Commission, Administration	37383	R597-1	AMD	05/14/2013	2013-7/37	
	37382	R597-3	AMD	05/14/2013	2013-7/38	
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Judicial Performance Evaluation Commission, Administration	37383	R597-1	AMD	05/14/2013	2013-7/37	
<u>juvenile courts</u>						
Education, Administration	37405	R277-709	5YR	03/12/2013	2013-7/64	
	37244	R277-709-3	NSC	02/15/2013	Not Printed	
<u>kidnap offender registry</u>						
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	37232	R722-360	NEW	03/25/2013	2013-4/46	
<u>kinship</u>						
Human Services, Child and Family Services	37505	R512-500	5YR	04/08/2013	2013-9/37	
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Labor Commission, Boiler and Elevator Safety	37493	R616-1	5YR	04/05/2013	2013-9/38	
	37520	R616-1	NSC	04/29/2013	Not Printed	
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Labor Commission, Administration	37492	R600-1	5YR	04/05/2013	2013-9/38	
<u>landfills</u>						
Environmental Quality, Air Quality	37258	R307-220	5YR	02/06/2013	2013-5/193	
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Commerce, Occupational and Professional Licensing	37274	R156-53	5YR	02/07/2013	2013-5/190	
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Environmental Quality, Air Quality	36729	R307-347	NEW	02/01/2013	2012-19/71	
	36729	R307-347	CPR	02/01/2013	2013-1/59	

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	37227	R722-320	NSC	02/15/2013	Not Printed

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Natural Resources, Administration	37219	R634-1	5YR	01/23/2013	2013-4/59
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	37199	R156-1-102	AMD	03/11/2013	2013-3/2
	37073	R156-3a-102	AMD	01/24/2013	2012-24/6
	37417	R156-31b	5YR	03/18/2013	2013-8/53
	37040	R156-37	AMD	01/08/2013	2012-23/18
	37175	R156-37-502	NSC	01/30/2013	Not Printed
	37039	R156-37f	NEW	01/08/2013	2012-23/21
	37071	R156-44a	AMD	01/22/2013	2012-24/11
	37273	R156-49	5YR	02/07/2013	2013-5/189
	37274	R156-53	5YR	02/07/2013	2013-5/190
	37364	R156-55a	AMD	04/22/2013	2013-6/17
	37270	R156-67-306	AMD	04/08/2013	2013-5/10
	37272	R156-68	5YR	02/07/2013	2013-5/191
	37271	R156-68-306	AMD	04/08/2013	2013-5/11
	37202	R156-82	NEW	03/11/2013	2013-3/5
	37396	R156-82	NSC	04/01/2013	Not Printed
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Environmental Quality, Radiation Control	37193	R313-18	AMD	03/19/2013	2013-3/42
	37186	R313-36	NSC	01/31/2013	Not Printed

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	37430	R436-12	5YR	03/21/2013	2013-8/60

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	36730	R307-348	CPR	02/01/2013	2013-1/61

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Natural Resources, Water Rights	37388	R655-5	5YR	03/07/2013	2013-7/66	
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	37507	R277-498-4	NSC	04/29/2013	Not Printed	
<u>Medicaid</u>						
Health, Health Care Financing	37045	R410-14	AMD	01/09/2013	2012-23/44	
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	37391	R414-6	5YR	03/08/2013	2013-7/65	
	37177	R414-27	5YR	01/09/2013	2013-3/109	
	37559	R414-51	5YR	04/30/2013	2013-10/213	
	37580	R414-52	5YR	05/01/2013	2013-10/214	
	37591	R414-53	5YR	05/03/2013	Not Printed	
	37221	R414-301	5YR	01/23/2013	2013-4/52	
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	37222	R414-305	5YR	01/23/2013	2013-4/54	
	37223	R414-308	5YR	01/23/2013	2013-4/55	
	37548	R414-509	EMR	05/01/2013	2013-10/209	
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Environmental Quality, Air Quality	37256	R307-222	5YR	02/06/2013	2013-5/194	
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Labor Commission, Industrial Accidents	37130	R612-2	REP	02/25/2013	2013-2/35	
	37126	R612-300	NEW	02/25/2013	2013-2/66	
<u>medical transportation</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	37174	R414-306	EMR	01/07/2013	2013-3/105	
	37218	R414-306	5YR	01/23/2013	2013-4/55	
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Environmental Quality, Air Quality	36734	R307-352	NEW	02/01/2013	2012-19/84	
	36734	R307-352	CPR	02/01/2013	2013-1/73	
<u>metal furniture</u>						
Environmental Quality, Air Quality	36728	R307-346	NEW	02/01/2013	2012-19/69	
	36728	R307-346	CPR	02/01/2013	2013-1/57	
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Commerce, Occupational and Professional Licensing	37071	R156-44a	AMD	01/22/2013	2012-24/11	
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Natural Resources, Oil, Gas and Mining; Non-Coal	37467	R647-1	5YR	04/01/2013	2013-8/65	
	37468	R647-2	5YR	04/01/2013	2013-8/65	
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	37477	R647-7	5YR	04/02/2013	2013-9/42
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Labor Commission, Boiler and Elevator Safety	37493	R616-1	5YR	04/05/2013	2013-9/38
	37520	R616-1	NSC	04/29/2013	Not Printed
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	36732	R307-350	CPR	02/01/2013	2013-1/65
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	37394	R162-2f-403	AMD	05/08/2013	2013-7/16
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	36856	R651-408	REP	01/15/2013	2012-20/77
<u>oil and gas law</u>					
Natural Resources, Oil, Gas and Mining; Oil and Gas	37444	R649-1-1	NSC	04/15/2013	Not Printed
	36992	R649-3-38	AMD	01/23/2013	2012-22/140

	37479	R649-6	5YR	04/02/2013	2013-9/43
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	37394	R162-2f-403	AMD	05/08/2013	2013-7/16
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	37271	R156-68-306	AMD	04/08/2013	2013-5/11
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Environmental Quality, Air Quality	36481	R307-208	NEW	04/10/2013	2012-15/12
	36481	R307-208	CPR	04/10/2013	2012-23/56
	36481	R307-208	CPR	04/10/2013	2013-5/184
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	37024	R994-406	AMD	01/02/2013	2012-22/148
	37238	R994-406-301	AMD	04/02/2013	2013-4/48
<u>ozone</u>					
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	36725	R307-340	CPR	02/01/2013	2013-1/48
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Environmental Quality, Air Quality	36726	R307-344	NEW	02/01/2013	2012-19/65
	36726	R307-344	CPR	02/01/2013	2013-1/52
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	37098	R810-1-14	AMD	03/21/2013	2013-1/13
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	37387	R810-12	EXD	03/07/2013	2013-7/71
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	37346	R671-513	5YR	02/15/2013	2013-5/214
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	36741	R307-307	CPR	02/01/2013	2013-1/45
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	37236	R307-401-15	NSC	02/15/2013	Not Printed
Health, Center for Health Data, Vital Records and Statistics	37427	R436-8	5YR	03/21/2013	2013-8/58
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	37595	R657-45	5YR	05/06/2013	Not Printed
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	37484	R311-204	NSC	04/29/2013	Not Printed
	37485	R311-205	NSC	04/29/2013	Not Printed
	37486	R311-206	NSC	04/29/2013	Not Printed
	37488	R311-208	NSC	04/29/2013	Not Printed
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	37490	R311-211	NSC	04/29/2013	Not Printed
	37491	R311-212	NSC	04/29/2013	Not Printed
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Commerce, Occupational and Professional Licensing	37270	R156-67-306	AMD	04/08/2013	2013-5/10
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	37419	R277-460-6	NSC	04/15/2013	Not Printed

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	37385	R746-330	5YR	03/05/2013	2013-7/68
	37451	R746-332	5YR	03/28/2013	2013-8/68
	37386	R746-347	5YR	03/05/2013	2013-7/68
	37452	R746-402	5YR	03/28/2013	2013-8/68
	37450	R746-405	5YR	03/28/2013	2013-8/69

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rabies

Health, Disease Control and Prevention, Epidemiology	37345	R386-702	AMD	05/15/2013	2013-5/173
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radiation

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	37197	R313-30	AMD	03/19/2013	2013-3/76
	37185	R313-34	NSC	01/31/2013	Not Printed

radiation safety

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	37197	R313-30	AMD	03/19/2013	2013-3/76
	37185	R313-34	NSC	01/31/2013	Not Printed

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	37193	R313-18	AMD	03/19/2013	2013-3/42
	37181	R313-21	NSC	01/31/2013	Not Printed
	37195	R313-22	AMD	03/19/2013	2013-3/56
	37184	R313-32	NSC	01/31/2013	Not Printed
	37186	R313-36	NSC	01/31/2013	Not Printed
	37187	R313-38	NSC	01/31/2013	Not Printed
	37188	R313-70	NSC	01/31/2013	Not Printed
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	37524	R25-8	5YR	04/15/2013	2013-9/30
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	37127	R612-400	NEW	02/25/2013	2013-2/76
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	36914	R70-330	AMD	01/29/2013	2012-21/9
	37620	R70-330	EMR	05/14/2013	Not Printed
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	37394	R162-2f-403	AMD	05/08/2013	2013-7/16
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	37466	R645-102	5YR	04/01/2013	2013-8/64
	37474	R645-104	5YR	04/02/2013	2013-9/40
	37475	R645-401	5YR	04/02/2013	2013-9/40
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	37513	R311-500	NSC	04/29/2013	Not Printed	
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