

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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EDITOR'S NOTES

Error in Publication of the Expiration of Rule R436-11

Rule R436-11, entitled "Local Registrars," expired effective 12/04/2012. The rule expired because the required five-year review was not filed by the due date (see Subsection 63G-3-305(8)).

The Division of Administrative Rules published a Notice of the Expiration in the April 15, 2013, issue of the Utah State Bulletin. Due to a clerical error, the Division published the expiration date as 12/04/2013 instead of 12/04/2012.

The Division regrets any inconvenience this may have caused.

Questions regarding the expiration of Rule R436-11 should be addressed to Nancy Lancaster at 801-538-3218 or by email at nllancaster@utah.gov. The Division of Administrative Rules regrets any inconvenience caused by this error.

End of the Editor's Notes Section

SPECIAL NOTICES

Health Health Care Financing, Coverage and Reimbursement Policy

Notice for July 2013 Medicaid Rate Changes

Effective July 1, 2013, Utah Medicaid will adjust its rates consistent with legislative intent and appropriations. Rate adjustments include new codes priced consistent with approved Medicaid methodologies as well as potential adjustments to existing codes. Nursing home rate changes will include adjustments to the flat rate, fair rental value and case mix components consistent with adopted payment methodology. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/bcrp.htm>

Health Health Care Financing, Coverage and Reimbursement Policy

Podiatric Services

The Division of Medicaid and Health Financing (DMHF) is submitting a change to the Medicaid State Plan through "Attachments 4.19-B, 3.1-A and 3.1-B, SPA 13-021-UT Podiatric Services." The purpose of this change is to broaden client access to podiatric services, and clarify services and limitations. This amendment, therefore, broadens client access to podiatric services through a provision that allows podiatrists to perform services within their scope of license to all categorically and medically needy recipients. It also updates the effective date of rates for podiatric services to 07/01/2013. The amendment also clarifies limitations on podiatric services and removes copayment policy already found in another part of the State Plan.

DMHF does not expect any increase or decrease in annual costs to result from this amendment.

The proposed effective date of this amendment is 07/01/2013, and it is pending Centers for Medicare and Medicaid Services approval.

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.

Health Health Care Financing, Coverage and Reimbursement Policy

Medicaid Outpatient Upper Payment Limit (UPL)

The Division of Medicaid and Health Financing (DMHF) is submitting changes to the Medicaid State Plan through "Attachment 4.19-B, SPA 13-022-UT Outpatient Hospital Upper Payment Limit".

These changes are meant to clarify verbiage in determining which cost report to use and the utilization trend that is included in calculating the outpatient hospital upper payment limit.

DMHF does not expect any increase in annual costs to result from this amendment.

The proposed effective date of this amendment is 07/01/2013, and it is pending Centers for Medicare and Medicaid Services approval.

A copy of the changes may be obtained from Craig Devashrayee (801-538-6641), or by writing the Technical Writing Unit, Utah Department of Health, PO 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
Dental Services

The Division of Medicaid and Health Financing (DMHF) is submitting changes to Attachments 4.19-B, 3.1-A and 3.1-B in the Medicaid State Plan through "SPA 13-024-UT, Dental Services".

To clarify client eligibility for dental services, this amendment specifies that residents in intermediate care facilities for people with an intellectual disability (ICF/ID) are eligible to receive dental services under the Medicaid program.

DMHF does not expect any increase in annual costs to result from this amendment.

The proposed effective date of this amendment is 07/01/2013, and it is pending Centers for Medicare and Medicaid Services approval.

A copy of the changes may be obtained from Craig Devashrayee (801-538-6641), or by writing the Technical Writing Unit, Utah Department of Health, PO 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
Home Health Services

The Division of Medicaid and Health Financing (DMHF) is submitting changes to Attachments 4.19-B, 3.1-A and 3.1-B in the Medicaid State Plan through "SPA 13-025-UT, Home Health Services." The purpose of this amendment is to clarify home health services under the Medicaid program, and to annually rebase pricing of physician codes based on the existing State Plan requirement. This amendment, therefore, updates the definition of home health services, clarifies services and limitations, updates references, and reorganizes home health information. It also updates the effective date of rates for home health services to 07/01/2013.

DMHF does not expect any increase or decrease in annual costs to result from this amendment.

The proposed effective date of this amendment is 07/01/2013, and it is pending Centers for Medicare and Medicaid Services approval.

A copy of the 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
Physical Therapy and Occupational Therapy

The Division of Medicaid and Health Financing (DMHF) is submitting changes to Attachments 3.1-A and 3.1-B in the Medicaid State Plan through "SPA 13-026-UT, Physical Therapy and Occupational Therapy".

The purpose of this amendment is to clarify physical therapy and occupational therapy services allowed in the Medicaid program.

This amendment, therefore, updates the definition of physical therapy and occupational therapy, clarifies services and limitations, updates references, and reorganizes information for physical therapy and occupational therapy.

DMHF does not expect any increase in annual costs to result from this amendment.

The proposed effective date of this amendment is 07/01/2013, and it is pending Centers for Medicare and Medicaid Services approval.

A copy of the changes may be obtained from Craig Devashrayee (801-538-6641), or by writing the Technical Writing Unit, Utah Department of Health, PO 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.

End of the Special Notices Section

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 16, 2013, 12:00 a.m., and May 31, 2013, 11:59 p.m. are included in this, the June 15, 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 15, 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 October 13, 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

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37658

FILED: 05/28/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: A section of this rule no longer meets the need it was anticipated to serve and therefore will be removed. An amendment in Section R17-7-3 is added to give the public instruction to adhere to the guidance of reference staff in the research room. Other typographical changes in Section R17-7-4 are made to clarify the language of the rule.

SUMMARY OF THE RULE OR CHANGE: Section R17-7-5 is removed from the rule. An amendment in Section R17-7-3 gives the research room staff the authority to make sure patrons follow the instructions of the reference staff. Other minor typographical changes in Section R17-7-4 are made to ensure clarity of the language.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63A-12-104

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There will be no change to state budget as a result of the amendment of this rule. There was no cost to the addition of this section to the rule and there will be none to its removal. The rule affects classification of records already in the custody of the Archives.

◆ **LOCAL GOVERNMENTS:** There will be no change to any local government budget as a result of the amendment of this rule. There was no cost involved in the addition of this section to the rule and there will be no cost involved in its removal. The rule affects only records already in the custody of the Archives.

◆ **SMALL BUSINESSES:** Small business are not affected by the amendment of this rule. The rule was amended for government agencies to classify records in the custody of the Archives. There will be no affect on small businesses as a result of this amendment.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Persons are not affected by the amendment of this rule. The possibility for classification of records by the Archives remains within its jurisdiction and small business are not affected by this rule or the amendment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Persons are not affected by the amendment of this rule. The possibility for classification of records by the Archives remains within its jurisdiction and small business are not affected by this rule or the amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This bill has no fiscal impact on business.

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

ADMINISTRATIVE SERVICES

ARCHIVES

346 S RIO GRANDE

SALT LAKE CITY, UT 84101-1106

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Susan Mumford by phone at 801-531-3861, by FAX at 801-531-3867, or by Internet E-mail at smumford@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2013

AUTHORIZED BY: Kimberly Hood, Executive Director

R17. Administrative Services, Archives and Records Service.

R17-7. Archival Records Care and Access at the State Archives.

R17-7-1. Authority and Purpose.

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

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

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

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

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

R17-7-3. Access to Records.

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

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

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

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

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

(6) Patrons shall use care in handling fragile materials. Patrons shall not alter, mutilate, or otherwise deface public records and are required to adhere to the instructions of reference staff.

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

(8) Patrons may only use equipment and resources in the Research Center for the purposes of research associated with the Utah State Archives or Utah State History.

R17-7-4. Enforcement.

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

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

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

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

[R17-7-5. Classification:

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

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

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

[KEY: records retention, public information, access to information

Date of Enactment or Last Substantive Amendment: [May 17, 2010]2013

Notice of Continuation: May 28, 2013

Authorizing, and Implemented or Interpreted Law: 63A-12-104

**Commerce, Real Estate
R162-2c
Utah Residential Mortgage Practices
and Licensing Rules**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 37678
FILED: 05/31/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to: 1) update the references to a lending manager in the context of the National Mortgage Licensing System (NMLS) so that it matches the description in the NMLS; 2) update and make minor revisions to the Utah school and course certification process; 3) require licensees to annually complete a division-approved course on Utah law; 4) impose new affirmative duties on schools while removing others; and 5) remove certain affirmative duties on instructors.

SUMMARY OF THE RULE OR CHANGE: The changes: 1) remove the term "principal" from references in the rules to "principal lending manager" that are associated with the National Mortgage Licensing System (NMLS) to reflect the NMLS's description which only identifies a lending manger while the Division of Real Estate further classifies these individuals as a principal lending manager, branch lending manager, or associate lending manager; 2)(a) modify the school certification process by requiring the school to provide an email address for the school, its director, and owner; and by requiring the school to state the type of instruction method used in its courses; 2)(b) remove the initial school certification requirement of listing the offered courses, a schedule of the courses, and proof that the division certified each course; 2)(c) require a school seeking to renew its certification to list proposed courses, a proposed schedule, and supply the same information as required for course certification; 2)(d) for course certification, require that the school provide a copy of each quiz with an answer key; 2)(e) clarifying that prelicensing courses expire and are automatically renewed at the same time as the school certification; 3) require licensees to annually complete a division approved course on Utah law, beginning in the 2014 renewal period; and 4) impose new affirmative duties on schools to provide a course completion certificate to students and ensure that the course materials are current.

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

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The state will save staff time and therefore money where the school provides email addresses because Division staff will spend less time attempting to contact the school's administrators. Minor staff time will be required to review and approve the course on Utah law. Thus, on balance the state budget will not be affected.
- ◆ **LOCAL GOVERNMENTS:** Local governments are not required to comply with or enforce the rules governing the mortgage industry. Therefore, no fiscal impact to local government will result from this filing.

♦ **SMALL BUSINESSES:** Small businesses may have minor effects; specifically, schools would be required to submit new information for course and school certification. However, these costs will be mitigated by the elimination of other requirements. Moreover, schools already retain this new information required to be submitted and should incur minimal cost in providing it to the Division. Finally, schools may see a minimal cost in meeting the new affirmative duties by providing a course completion certificate and keeping their materials up to date.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Small businesses may have minor effects; specifically, schools would be required to submit new information for course and school certification. However, these costs will be mitigated by the elimination of other requirements. Moreover, schools already have this new information required to be submitted and should incur minimal cost in providing it to the Division. Finally, schools may see a minimal cost in meeting the new affirmative duties by providing a course completion certificate and keeping their materials up to date.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Small businesses may have minor effects; specifically, schools would be required to submit new information for course and school certification. However, these costs will be mitigated by the elimination of other requirements. Moreover, schools already have this new information required to be submitted and should incur minimal cost in providing it to the Division. Finally, schools may see a minimal cost in meeting the new affirmative duties by providing a course completion certificate and keeping their materials up to date.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As stated above, any costs to mortgage education providers that are attendant to the proposed course certification and course content requirements should be offset by the removal of existing language that requires education providers to submit to the Division student evaluations of each course taught. In the balance, businesses are not expected to experience any meaningful costs as a result of these proposed amendments.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Ben Jensen by phone at 801-530-6603, by FAX at 801-526-4387, or by Internet E-mail at bjensen@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2013

AUTHORIZED BY: Francine Giani, Executive Director

R162. Commerce, Real Estate.

R162-2c. Utah Residential Mortgage Practices and Licensing Rules.

R162-2c-102. Definitions.

(1) The acronym "ALM" stands for associate lending manager.

(2) The acronym "BLM" stands for branch lending manager.

(3) "Certification" means authorization from the division to:
(a) establish and operate a school that provides courses for Utah-specific prelicensing education or continuing education; or
(b) function as an instructor for courses approved for Utah-specific prelicensing education or continuing education.

(4) "Credit hour" means 50 minutes of instruction within a 60-minute time period, allowing for a ten-minute break.

(5) "Control person" is defined in Section 61-2c-102(1)(p).

(6) "Expired license" means a license that is not renewed according to applicable deadlines, but is eligible to be reinstated.

(7) "Individual applicant" means any individual who applies to obtain or renew a license to practice as a mortgage loan originator or lending manager.

(8) "Incentive program" means a program through which a licensed entity may, pursuant to Subsection R162-2c-301b, pay a licensed mortgage loan originator who is sponsored by the entity for bringing business into the entity.

(9) "Instruction method" means the forum through which the instructor and student interact and may be:

(a) classroom: traditional instruction where instructors and students are located in the same physical location;

(b) classroom equivalent: an instructor-led course where the instructor and students may be in two or more physical locations; or

(c) online: instructor and student interact through an online classroom.

(10) "Instructor applicant" means any individual who applies to obtain or renew certification as an instructor of Utah-specific pre-licensing or continuing education courses.

(11)(a) "Lending manager" is defined in Section 61-2c-102(1)(aa).

(b) "Lending manager license" includes:

- (i) a principal lending manager license;
- (ii) an associate lending manager license; and
- (iii) a branch lending manager license.

(12) The acronym "LM" stands for lending manager and includes the following licensing designations:

- (a) principal lending manager;
- (b) associate lending manager; and
- (c) branch lending manager.

- (13) "Mortgage entity" means any entity that:
- (a) engages in the business of residential mortgage lending;
 - (b) is required to be licensed under Section 61-2c-201; and
 - (c) operates under a business name or other trade name that is registered with the Division of Corporations and Commercial Code.
- (14) "Nationwide database" means the Nationwide Mortgage Licensing System and Registry.
- (15) The acronym "NMLS" stands for Nationwide Mortgage Licensing System.
- (16) "Other trade name" means any assumed business name under which an entity does business.
- (17) "Personal information" means a person's first name or first initial and last name, combined with any one or more of the following data elements relating to that person when either the name or data element is unencrypted or not protected by another method that renders the data unreadable or unusable:
- (a) Social Security number;
 - (b) financial account number, or credit or debit card number; or
 - (c) driver license number or state identification card number.
- (18) The acronym "PLM" stands for principal lending manager.
- (19) "Qualifying individual" means the [P]LM, managing principal, or qualified person who is identified on the MU1 form in the nationwide database as the person in charge of an entity.
- (20) "Reapplication" or "reapply" refers to a request for licensure that is submitted after the deadline for reinstatement expires and the license has become terminated.
- (21) "Reinstatement" or "reinstate" refers to a request for a licensure that is submitted after the applicable December 31 license expiration date passes and by or before February 28 of the following calendar year.
- (22) As used in Subsection R162-2c-201, "relevant information" includes:
- (a) court dockets;
 - (b) charging documents;
 - (c) orders;
 - (d) consent agreements; and
 - (e) any other information the division may require.
- (23) "Restricted license" means any license that is issued subject to a definite period of suspension or terms of probation.
- (24) "Safeguard" means to prevent unauthorized access, use, disclosure, or dissemination.
- (25) "School" means
- (a) any college or university accredited by a regional accrediting agency that is recognized by the United States Department of Education;
 - (b) any community college;
 - (c) any vocational-technical school;
 - (d) any state or federal agency or commission;
 - (e) any nationally recognized mortgage organization that has been approved by the commission;
 - (f) any Utah mortgage organization that has been approved by the commission;
 - (g) any local mortgage organization that has been approved by the commission; or
 - (h) any proprietary mortgage education school that has been approved by the commission.

(26) "School applicant" means a director or owner of a school who applies to obtain or renew a school's certification.

(27) "Terminated license" means a license that was not renewed or reinstated according to applicable deadlines.

R162-2c-201. Licensing and Registration Procedures.

- (1) Mortgage loan originator.
 - (a) To obtain a Utah license to practice as a mortgage loan originator, an individual who is not currently and validly licensed in any state shall:
 - (i) evidence good moral character pursuant to R162-2c-202(1);
 - (ii) evidence competency to transact the business of residential mortgage loans pursuant to R162-2c-202(2);
 - (iii) evidence financial responsibility pursuant to R162-2c-202(3);
 - (iv) obtain a unique identifier through the nationwide database;
 - (v) successfully complete, within the 12-month period prior to the date of application, 15 hours of Utah-specific pre-licensing education as approved by the division;
 - (vi)(A) successfully complete 20 hours of pre-licensing education as approved by the nationwide database according to the nationwide database outline for national course curriculum; or
 - (B) if the individual previously passed the 20-hour national course, obtained a license, and thereafter allowed the license to expire, successfully complete continuing education:
 - (I) approved by the nationwide database; and
 - (II) in the number of hours that would have been required to renew the expired license in the year in which the individual allowed the license to expire;
 - (vii) take and pass the examinations that meet the requirements of Section 61-2c-204.1(4) and that:
 - (A) are approved and administered through the nationwide database; and
 - (B) consist of a national component and a Utah-specific state component;
 - (viii) request licensure as a mortgage loan originator through the nationwide database;
 - (ix) authorize a criminal background check and submit fingerprints through the nationwide database;
 - (x) authorize the nationwide database to provide the individual's credit report to the division for review;
 - (xi) provide to the division all relevant information regarding "yes" answers to disclosure questions found within the application submitted on the MU4 form;
 - (xii) record with the nationwide database a mailing address, if the applicant is not able to accept mail at the physical location or street address that is required to be on record with the nationwide database pursuant to Section 61-2c-106(1)(a);
 - (xiii) complete, sign, and submit to the division a social security verification form as provided by the division; and
 - (xiv) pay all fees through the nationwide database as required by the division and by the nationwide database.
 - (b) To obtain a Utah license to practice as a mortgage loan originator, an individual who is currently and validly licensed in another state shall:
 - (i) evidence good moral character pursuant to R162-2c-202(1);

(ii) evidence competency to transact the business of residential mortgage loans pursuant to R162-2c-202(2);

(iii) evidence financial responsibility pursuant to R162-2c-202(3);

(iv)(A) successfully complete, within the 12-month period prior to the date of application, 15 hours of Utah-specific mortgage loan originator prelicensing education; and

(B) take and pass the Utah-specific state examination component;

(v) provide to the division all relevant information regarding "yes" answers to disclosure questions found within the application submitted on the MU4 form;

(vi) record with the nationwide database a mailing address, if the applicant is not able to accept mail at the physical location or street address that is required to be on record with the nationwide database pursuant to Section 61-2c-106(1)(a);

(vii) request licensure as a mortgage loan originator through the nationwide database;

(viii) authorize a criminal background check through the nationwide database;

(ix) authorize the nationwide database to provide the individual's credit report to the division for review;

(x) complete, sign, and submit to the division a social security verification form as provided by the division; and

(xi) pay all fees through the nationwide database as required by the division and by the nationwide database.

(2) Lending manager. To obtain a Utah license to practice as an LM, an individual shall:

(a) evidence good moral character pursuant to R162-2c-202(1);

(b) evidence competency to transact the business of residential mortgage loans pursuant to R162-2c-202(2);

(c) evidence financial responsibility pursuant to R162-2c-202(3);

(d) provide to the division:

(i) the individual's unique identifier as assigned through the nationwide database; and

(ii) evidence that the individual has taken and passed:

(A) the 20-hour national mortgage loan originator prelicensing course; and

(B) the mortgage loan originator examinations that:

(I) meet the requirements of Section 61-2c-204.1(4);

(II) are approved and administered through the nationwide database; and

(III) consist of a national component and a Utah-specific state component;

(e) obtain approval from the division to take the Utah-specific LM prelicensing education by evidencing that the applicant has satisfied, during the five-year period preceding the date of application, the experience requirement of Section 61-2c-206(1)(d) through:

(i)(A) three years full-time experience originating first-lien residential mortgages pursuant to Section 61-2c-102(1)(ee)(i)(A):

(I) under a license issued by a state regulatory agency; or

(II) as an employee of a depository institution; and

(B) evidence of having originated a minimum of 45 first-lien residential mortgages; or

(ii)(A)(I) two years full-time experience as described in this Subsection (2)(e)(i)(A); and

(II) additional full-time experience per the equivalency calculation in Subsection R162-2c-501a; and

(B)(I) evidence of having originated a minimum of 30 first-lien residential mortgages; and

(II) up to 15 additional points according to the experience points schedule in Subsection R162-2c-501b;

(f) within the 12-month period preceding the date of application, successfully complete 40 hours of Utah-specific [P]LM prelicensing education as certified by the division;

(g) take and pass a lending manager examination as approved by the commission;

(h) provide to the division all relevant information regarding "yes" answers to disclosure questions found within the application submitted on the MU4 form;

(i) record with the nationwide database a mailing address, if the applicant is not able to accept mail at the physical location or street address that is required to be on record with the nationwide database pursuant to Section 61-2c-106(1)(a);

(j)(i) register in the nationwide database by selecting the "lending manager" license type and completing the associated MU4 form; and

(ii) designate in the nationwide database whether the individual will be acting for the sponsoring entity as:

(A) the principal lending manager;

(B) an associate lending manager; or

(C) a branch lending manager;

(k) authorize a criminal background check and submit fingerprints through the nationwide database;

(l) authorize the nationwide database to provide the individual's credit report to the division for review;

(m) complete, sign, and submit to the division a social security verification form as provided by the division; and

(n) pay all fees through the nationwide database as required by the division and by the nationwide database.

(3) Mortgage entity.

(A) To obtain a Utah license to operate as a mortgage entity, a person shall:

(i) establish that all control persons meet the requirements for moral character pursuant to R162-2c-202(1);

(ii) establish that all control persons meet the requirements for competency pursuant to R162-2c-202(2);

(iii) register any other trade name with the Division of Corporations and Commercial Code;

(iv) register the entity in the nationwide database by:

(A) submitting an MU1 form that includes:

(I) all required identifying information;

(II) the name of the PLM who, pursuant to Subsection R162-2c-301a(3)(a)(iv), will serve as the entity's qualifying individual;

(III) the name of any LM who, pursuant to Subsection R162-2c-301a(3)(a)(iv), will serve as a branch lending manager;

(IV) the name of any individuals who may serve as control persons;

(V) the entity's registered agent; and

(VI) any other trade name under which the entity will operate; and

(B) creating a sponsorship through the nationwide database that identifies the mortgage loan originator(s) sponsored by the entity;

(v) register any branch office operating from a different location than the entity;

(vi) pay all fees through the nationwide database as required by the division and by the nationwide database;

(vii) provide to the division proof that any assumed business name or other trade name is registered with the Division of Corporations and Commercial Code;

(viii) provide to the division all court documents related to any criminal proceeding not disclosed through a previous application or renewal and involving any control person;

(ix) provide to the division complete documentation of any action taken by a regulatory agency against:

- (A) the entity itself; or
- (B) any control person; and
- (C) not disclosed through a previous application or renewal;

and

(x) provide to the division a notarized letter on company letterhead, signed by the owner or president of the entity, authorizing the PLM to use the entity's name.

(b) Restrictions on entity name. No license may be issued by the division to an entity that proposes to operate under a name that closely resembles the name of another entity licensee, or that the division determines might otherwise be confusing or misleading to the public.

(4) Branch office.

(a) To register a branch office with the division, a person shall:

(i) obtain a Utah entity license for the entity under which the branch office will be registered;

(ii) submit to the nationwide database an MU3 form that includes:

- (A) all required identifying information; and
- (B) the name of the LM who will serve as the branch lending manager;

(iii) create a sponsorship through the nationwide database that identifies the mortgage loan originator(s) who will work from the branch office; and

(iv) pay all fees through the nationwide database as required by the division and by the nationwide database.

(b) A person who registers another trade name and operates under that trade name from an address that is different from the address of the entity shall register the other trade name as a branch office pursuant to this Subsection (4).

(c)(i) A PLM may not simultaneously serve as a BLM if Subsection R162-2c-301a(3)(a)(iv)(B) applies.

(ii) An individual may not serve as the BLM for more than one branch at any given time.

(5) Licenses not transferable.

(a) A licensee shall not transfer the licensee's license to any other person.

(b) A licensee shall not allow any other person to work under the licensee's license.

(c) If a change in corporate structure of a licensed entity creates a separate and unique legal entity, that entity shall obtain a unique license, and shall not operate under any existing license.

(6) Expiration of test results.

(a) Scores for the mortgage loan originator licensing examination shall be valid for five years.

(b) Scores for the LM exam shall be valid for 90 days.

(7) Incomplete LM application.

(a) The division may grant a 30-day extension of the 90-day application window upon a finding that:

(i) an applicant has made a good faith attempt to submit a completed application; but

(ii) requires more time to provide missing documents or to obtain additional information.

(b) If the applicant does not supply the required documents or information within the 30-day extension, the division may deny the application as incomplete.

(8) Nonrefundable fees. All fees are nonrefundable, regardless of whether an application is granted or denied.

(9) Other trade names.

(a) The division shall not approve a license for any person operating under an assumed business name that poses a reasonable likelihood of misleading the public into thinking that the person is:

(i) endorsed by the division, the state government, or the federal government;

(ii) an agency of the state or federal government; or

(iii) not engaged in the business of residential mortgage loans.

(b) A mortgage entity that operates under another trade name shall register the other trade name by including it on the MU1 form and obtaining the required registration.

R162-2c-203. Utah-Specific Education Certification.

(1) School certification.

(a) A school offering Utah-specific education shall certify with the division before providing any instruction.

(b) To certify, a school applicant shall prepare and supply the following information to the division:

(i) contact information, including:

(A) name, phone number, email address, and address of the physical facility;

(B) name, phone number, email address, and address of any school director;

(C) name, phone number, email address, and address of any school owner; and

(D) an e-mail address where correspondence will be received by the school;

(ii) evidence that all school directors and owners meet the moral character requirements outlined in R162-2c-202(1) and the competency requirements outlined in R162-2c-202(2);

(iii) school description, including:

(A) type of school; ~~and~~

(B) description of the school's physical facilities; and

(C) type of instruction method;

~~[(iv) list of courses offered;~~

~~[(v) proof that each course has been certified by the division;~~

](iv[~~i~~] list of the instructor(s), including any guest lecturer(s), who will be teaching each course;

(v[~~ii~~]) proof that each instructor:

(A) has been certified by the division; or

(B) is exempt from certification under Subsection 203(5)(f);

~~[(viii) schedule of courses offered, including the days, times, and locations of classes;~~

](vi[~~x~~]) statement of attendance requirements as provided to students;

(vii[~~x~~]) refund policy as provided to students;

(~~xi~~[viii]) disclaimer as provided to students; and
 (ix[~~ii~~]) criminal history disclosure statement as provided to students.

(c) Minimum standards.

(i) The course schedule may not provide or allow for more than eight credit hours per student per day.

(ii) The attendance statement shall require that each student attend at least 90% of the scheduled class time.

(iii) The disclaimer shall adhere to the following requirements:

(A) be typed in all capital letters at least 1/4 inch high; and

(B) state the following language: "Any student attending (school name) is under no obligation to affiliate with any of the mortgage entities that may be soliciting for licensees at this school."

(iv) The criminal history disclosure statement shall:

(A) be provided to students while they are still eligible for a full refund; and

(B) clearly inform the student that upon application with the nationwide database, the student will be required to:

(I) accurately disclose the student's criminal history according to the licensing questionnaire provided by the nationwide database and authorized by the division; and

(II) provide to the division complete court documentation relative to any criminal proceeding that the applicant is required to disclose;

(C) clearly inform the student that the division will consider the applicant's criminal history pursuant to R162-2c-202(1) in making a decision on the application; and

(D) include a section for the student's attestation that the student has read and understood the disclosure.

(d) Within ten days after the occurrence of any material change in the information outlined in Subsection (1), the school shall provide to the division written notice of that change.

(2) School certification expiration and renewal.~~(e)~~ A school certification expires 24 months from the date of issuance and must be renewed before the expiration date in order for the school to remain in operation. To renew, a school applicant shall:

(a)~~(f)~~ complete a renewal application as provided by the division;~~and~~

(b)~~(g)~~ pay a nonrefundable renewal fee[-];

(c) provide a list of all proposed courses with a projected schedule of days, times, and locations of classes; and

(d) provide the information specified in Subsection 3(c) for Utah-specific course certification for the division's evaluation of each proposed course.

(3)~~(2)~~ Utah-specific course certification.

(a) A school providing a Utah-specific course shall certify the course with the division before offering the course to students.

(b) Application shall be made at least 30 days prior to the date on which a course requiring certification is proposed to begin.

(c) To certify a course, a school applicant shall prepare and supply the following information:

(i) instruction method;

(ii) outline of the course, including:

(A) a list of subjects covered in the course;

(B) reference to the approved course outline for each subject covered;

(C) length of the course in terms of hours spent in classroom instruction;

(D) number of course hours allocated for each subject;

(E) at least three learning objectives for every hour of classroom time;

(F) instruction format for each subject; i.e, lecture or media presentation;

(G) name and credentials of any guest lecturer; and

(H) list of topic(s) and session(s) taught by any guest lecturer;

(iii) a list of the titles, authors, and publishers of all required textbooks;

(iv) copies of any workbook used in conjunction with a non-lecture method of instruction;

(v) ~~[the number]~~ a copy of each quiz~~[zes]~~ and examination~~[s]~~, with an answer key; and

(vi) the grading system, including methods of testing and standards of grading.

(d) Minimum standards.

(i) All texts, workbooks, supplement pamphlets and other materials shall be appropriate, current, accurate, and applicable to the required course outline.

(ii) The course shall cover all of the topics set forth in the associated outline.

(iii) The lecture method shall be used for at least 50% of course instruction unless the division gives special approval otherwise.

(iv) A school applicant that uses a non-lecture method for any portion of course instruction shall provide to the student:

(A) an accompanying workbook as approved by the division for the student to complete during the instruction; and

(B) a certified instructor available within 48 hours of the non-lecture instruction to answer student questions.

(v) The division shall not approve an online education course unless:

(A) there is a method to ensure that the enrolled student is the person who actually completes the course;

(B) the time spent in actual instruction is equivalent to the credit hours awarded for the course; and

(C) there is a method to ensure that the student comprehends the material.

(4)~~(3)~~ Course expiration and renewal.

(a) A prelicensing course expires at the same time the school certification expires.

(b) A prelicensing course certification is renewed automatically when the school certification is renewed.~~—A certification for a 15-hour Utah-specific prelicensing course expires two years from the date of certification.]~~

(5)~~(4)~~ Education committee.

(a) The commission may appoint an education committee to:

(i) assist the division and the commission in approving course topics; and

(ii) make recommendations to the division and the commission about:

(A) whether a particular course topic is relevant to residential mortgage principles and practices; and

(B) whether a particular course topic would tend to enhance the competency and professionalism of licensees.

(b) The division and the commission may accept or reject the education committee's recommendation on any course topic.

(6)~~(5)~~ Instructor certification.

(a) Except as provided in this Subsection (~~[5]~~6)(f), an instructor shall certify with the division before teaching a Utah-specific course.

(b) Application shall be made at least 30 days prior to the date on which the instructor proposes to begin teaching.

(c) To certify as an instructor of mortgage loan originator preclicensing courses, an individual shall provide evidence of:

(i) a high school diploma or its equivalent;

(ii)(A) at least five years of experience in the residential mortgage industry within the past ten years; or

(B) successful completion of appropriate college-level courses specific to the topic proposed to be taught;

(iii)(A) a minimum of twelve months of full-time teaching experience;

(B) part-time teaching experience that equates to twelve months of full-time teaching experience; or

(C) participation in instructor development workshops totaling at least two days in length; and

(iv) having passed, within the six-month period preceding the date of application, the ~~principal~~ lending manager licensing examination.

(d) To certify as an instructor of [P]LM preclicensing courses, an individual shall:

(i) meet the general requirements of this Subsection ~~6~~5(c); and

(ii) meet the specific requirements for any of the following courses the individual proposes to teach.

(A) Management of a Residential Mortgage Loan Office: at least two years practical experience in managing an office engaged in the business of residential mortgage loans.

(B) Mortgage Lending Law: two years practical experience in the field of real estate law; and either:

(I) current active membership in the Utah Bar Association; or

(II) degree from an American Bar Association accredited law school.

(C) Advanced Appraisal:

(I) at least two years practical experience in appraising; and

(II) current state-certified appraiser license.

(D) Advanced Finance:

(I) at least two years practical experience in real estate finance; and

(II) association with a lending institution as a loan originator.

(e) To act as an instructor of continuing education courses, an individual shall certify through the nationwide database.

(f) The following instructors are not required to be certified by the division:

(i) a guest lecturer who:

(A) is an expert in the field on which instruction is given;

(B) provides to the division a resume or similar documentation evidencing satisfactory knowledge, background, qualifications, and expertise; and

(C) teaches no more than 20% of the course hours;

(ii) a college or university faculty member who evidences academic training, industry experience, or other qualifications acceptable to the division;

(iii) an individual who:

(A) evidences academic training, industry experience, or other qualifications satisfactory to the division; and

(B) receives approval from the commission; and

(iv) a division employee.

(g) Renewal.

(i) An instructor certification for Utah-specific preclicensing education expires 24 months from the date of issuance and shall be renewed before the expiration date.

(ii) To renew an instructor certification for Utah-specific preclicensing education, an applicant shall submit to the division:

(A) evidence of having taught at least 20 hours of classroom instruction in a certified mortgage education course during the preceding two years;

(B) evidence of having attended an instructor development workshop sponsored by the division during the preceding two years; and

(C) a renewal fee as required by the division.

(iii) To renew an instructor certification for continuing education, an individual shall certify through the nationwide database.

(h) Reinstatement.

(i) An instructor who is certified by the division may reinstate an expired certification within 30 days of expiration by:

(A) complying with this Subsection (~~6~~5)(g); and

(B) paying an additional non-refundable late fee.

(ii) Until six months following the date of expiration, an instructor who is certified by the division may reinstate a certification that has been expired more than 30 days by:

(A) complying with this Subsection (~~6~~5)(g);

(B) paying an additional non-refundable late fee; and

(C) completing six classroom hours of education related to residential mortgages or teaching techniques.

~~(Z)~~(~~6~~) (a) The division may monitor schools and instructors for:

(i) adherence to course content;

(ii) quality of instruction and instructional materials; and

(iii) fulfillment of affirmative duties as outlined in R162-2c-301a(5)(a) and R162-2c-301a(6)(a).

(b) To monitor schools and instructors, the division may:

(i) collect and review evaluation forms; or

(ii) assign an evaluator to attend a course and make a report to the division.

R162-2c-204. License Renewal, Reinstatement, and Reapplication.

(1) Deadlines.

(a) License renewal.

(i) To renew on time, a person who holds an active license as of October 31 shall renew by December 31 of the same calendar year.

(ii)(A) A person who obtains a license on or after November 1 shall renew by December 31 of the following calendar year.

(B) A person who is not required to renew in the first year of licensure pursuant to this Subsection (1)(a)(ii)(A) shall nevertheless complete, prior to December 31 of the first year of licensure, continuing education as required for renewal pursuant to Subsection R162-2c-204(3)(a) if the individual did not complete the mortgage loan originator national pre-licensing education during the calendar year.

(b) Reinstatement. The deadline to reinstate a license that expires on December 31 is February 28 of the year following the date of expiration.

(c) After the reinstatement deadline passes, a person shall reapply for licensure pursuant to Subsection R162-2c-204(3)(c).

(2) Qualification for renewal.

(a) Character.

(i) Individuals applying to renew or reinstate a license shall evidence that they maintain good moral character, honesty, integrity, and truthfulness as required for initial licensure.

(ii) An individual applying for a renewed license may not have:

(A) a felony that resulted in a conviction or plea agreement during the renewal period; or

(B) a finding of fraud, misrepresentation, or deceit entered against the applicant by a court of competent jurisdiction or a government agency and occurring within the renewal period.

(iii) The division may deny an individual applicant a renewed license upon evidence, as outlined in Subsection R162-2c-202(1)(b), of circumstances that reflect negatively on the applicant's character, honesty, integrity, or truthfulness and that:

(A) occurred during the renewal period; or

(B) were not disclosed and considered in a previous application or renewal.

(iv) The division may deny an entity applicant a renewed license upon evidence that a control person fails to meet the standards for character, honesty, integrity, and truthfulness required of individual applicants.

(b) Competency.

(i) Individual applicants and control persons shall evidence that they maintain the competency required for initial licensure.

(ii) The division may deny an individual applicant a renewed license upon evidence, as outlined in Subsection R162-2c-202(2), of circumstances that reflect negatively on the applicant's competency and that:

(A) occurred during the renewal period; or

(B) were not disclosed and considered in a previous application or renewal.

(iii) The division may deny an entity applicant a renewed license upon evidence that a control person fails to meet the standard for competency required of individual applicants.

(3) Education requirements for renewal, reinstatement, and reapplication.

(a) License renewal.

(i) Except as provided in this Subsection (3)(a)(ii), an individual who holds an active license as of January 1 of the calendar year shall complete, within the calendar year in which the individual's license is scheduled to expire, the following courses, none of which may be duplicative of courses taken in the same or preceding renewal period:

(A) beginning with the 2014 renewal, a division-approved course on Utah law completed annually; and

(B) eight hours of continuing education approved through the nationwide database, as follows:

[~~(A) approved through the nationwide database;~~

~~(B) consisting of:~~

] (I) three hours federal laws and regulations;

(II) two hours ethics (fraud, consumer protection, fair lending issues);

(III) two hours training related to lending standards for non-traditional mortgage products; and

(IV) one hour undefined instruction on mortgage origination[~~]; and~~

~~(C) non-duplicative of courses taken in the same or preceding renewal period].~~

(ii) An individual who completes the mortgage loan originator national pre-licensing education between January 1 and December 31 of the calendar year is exempt from continuing education, including the division-approved course on Utah law specified in Subsection (3)(a)(i)(A), for the renewal period ending December 31 of the same calendar year.

(b) Reinstatement. To reinstate an expired mortgage loan originator or lending manager license, an individual shall, by February 28 of the calendar year following the date on which the license expired, complete:[~~eight hours of continuing education:~~

(i) the division-approved course on Utah law specified in Subsection (3)(a)(i)(A); and

(ii) ~~(+)~~ eight hours of continuing education:

(A) in topics listed in this Subsection (3)(a)(i)(B); and

~~[(+)(A)](B)(I)~~ approved by the nationwide database as "continuing education" if completed prior to the date of expiration; or

~~[(+)(B)](II)~~ approved by the nationwide database as "late continuing education" if completed between the date of expiration and the deadline for reinstatement.

(c) Reapplication.

(i) To reapply for licensure after the reinstatement deadline passes and by or before December 31 of the calendar year following the date on which the license expired, an individual shall complete the division-approved course on Utah law and continuing education requirement outlined in this Subsection (3)(b).

(ii) To reapply for licensure after the deadline described in this Subsection (3)(c)(i) passes, an individual shall:

(A) complete eight hours of continuing education:

(I) in topics listed in this Subsection (3)(a)(i); and

(II) approved by the nationwide database as "late continuing education"; and

(B) within the 12-month period preceding the date of reapplication, take and pass:

(I) the 15-hour Utah-specific mortgage loan originator pre-licensing education, if the terminated license was a mortgage loan originator license; or

(II) the 40-hour Utah-specific ~~principal~~ lending manager pre-licensing education and associated examination, if the terminated license was a lending manager license~~]; and~~

(C) complete the division-approved course on Utah law specified in Subsection (3)(a)(i)(A).

(4) Renewal, reinstatement, and reapplication procedures.

(a) An individual licensee shall:

(i) evidence having completed education as required by Subsection R162-2c-204(3);

(ii) submit to the division the jurisdiction-specific documents and information required by the nationwide database; and

(iii) submit through the nationwide database:

(A) a request for renewal, if renewing or reinstating a license; or

(B) a request for a new license, if reapplying; and

(iv) pay all fees as required by the division and by the nationwide database, including all applicable late fees.

- (b) An entity licensee shall:
- (i) submit through the nationwide database a request for renewal;
 - (ii) submit to the division the jurisdiction-specific documents and information required by the nationwide database;
 - (iii) renew the registration of any branch office or other trade name registered under the entity license; and
 - (iv) pay through the nationwide database all fees, including all applicable late fees, required by the division and by the nationwide database.

R162-2c-301a. Unprofessional Conduct.

- (1) Mortgage loan originator.
 - (a) Affirmative duties. A mortgage loan originator who fails to fulfill any affirmative duty shall be subject to discipline under Sections 61-2c-401 through 405. A mortgage loan originator shall:
 - (i) solicit business and market products solely in the name of the mortgage loan originator's sponsoring entity;
 - (ii) conduct the business of residential mortgage loans solely in the name of the mortgage loan originator's sponsoring entity;
 - (iii) remit to any third party service provider the fee(s) that have been collected from a borrower on behalf of the third party service provider, including:
 - (A) appraisal fees;
 - (B) inspection fees;
 - (C) credit reporting fees; and
 - (D) insurance premiums;
 - (iv) turn all records over to the sponsoring entity for proper retention and disposal; and
 - (v) comply with a division request for information within 10 business days of the date of the request.
 - (b) Prohibited conduct. A mortgage loan originator who engages in any prohibited activity shall be subject to discipline under Sections 61-2c-401 through 405. A mortgage loan originator may not:
 - (i) charge for services not actually performed;
 - (ii) require a borrower to pay more for third party services than the actual cost of those services;
 - (iii) withhold, without reasonable justification, payment owed to a third party service provider in connection with the business of residential mortgage loans;
 - (iv) alter an appraisal of real property; or
 - (v) unless acting under a valid real estate license and not under a mortgage license, perform any act that requires a real estate license under Title 61, Chapter 2f, including:
 - (A) providing a buyer or seller of real estate with a comparative market analysis;
 - (B) assisting a buyer or seller to determine the offering price or sales price of real estate;
 - (C) representing or assisting a buyer or seller of real estate in negotiations concerning a possible sale of real estate;
 - (D) advertising the sale of real estate by use of any advertising medium;
 - (E) preparing, on behalf of a buyer or seller, a Real Estate Purchase Contract, addendum, or other contract for the sale of real property; or
 - (F) altering, on behalf of a buyer or seller, a Real Estate Purchase Contract, addendum, or other contract for the sale of real property.

(c) A mortgage loan originator does not engage in an activity requiring a real estate license where the mortgage loan originator:

- (i) offers advice about the consequences that the terms of a purchase agreement might have on the terms and availability of various mortgage products;
- (ii) owns real property that the mortgage loan originator offers "for sale by owner"; or
- (iii) advertises mortgage loan services in cooperation with a "for sale by owner" seller where the advertising clearly identifies:
 - (A) the owner's contact information;
 - (B) the owner's role;
 - (C) the mortgage loan originator's contact information; and
 - (D) the specific mortgage-related services that the mortgage loan originator may provide to a buyer; or
- (iv) advertises in conjunction with a real estate brokerage where the advertising clearly identifies the:
 - (A) contact information for the brokerage;
 - (B) role of the brokerage;
 - (C) mortgage loan originator's contact information; and
 - (D) specific mortgage-related services that the mortgage loan originator may provide to a buyer.
- (2) Lending manager.
 - (a) Affirmative duties. A lending manager who fails to fulfill any affirmative duty shall be subject to discipline under Sections 61-2c-401 through 405.
 - (b) An LM who is designated in the nationwide database as the principal lending manager of an entity shall:
 - (i) be accountable for the affirmative duties outlined in Subsection (1)(a);
 - (ii) provide to all sponsored mortgage loan originators and unlicensed staff specific written policies as to their affirmative duties and prohibited activities, as established by:
 - (A) federal law governing residential mortgage lending;
 - (B) state law governing residential mortgage lending and including the Utah Residential Mortgage Practices Act; and
 - (C) administrative rules promulgated by the division under authority of the Utah Residential Mortgage Practices Act;
 - (iii) exercise reasonable supervision over all sponsored mortgage loan originators and over all unlicensed staff by:
 - (A) directing the details and means of their work activities;
 - (B) requiring that they read and agree to comply with the Utah Residential Mortgage Practices Act and the rules promulgated thereunder;
 - (C) requiring that they conduct all residential mortgage loan business in the name of the sponsoring entity; and
 - (D) prohibiting unlicensed staff from engaging in any activity that requires licensure;
 - (iv) establish and enforce written policies and procedures for ensuring the independent judgment of any underwriter employed by the PLM's sponsoring entity;
 - (v) establish and follow procedures for responding to all consumer complaints;
 - (vi) personally review any complaint relating to conduct by a sponsored mortgage loan originator or unlicensed staff member that might constitute a violation of federal law, state law, or division administrative rules;
 - (vii) establish and maintain a quality control plan that:

(A) complies with HUD/FHA requirements;
 (B) complies with Freddie Mac and Fannie Mae requirements; or
 (C) includes, at a minimum, procedures for:
 (I) performing pre-closing and post-closing audits of at least ten percent of all loan files; and
 (II) taking corrective action for problems identified through the audit process; and
 (viii) review for compliance with applicable federal and state laws all advertising and marketing materials and methods used by:

(A) the PLM's sponsoring entity; and
 (B) the entity's sponsored mortgage loan originators; and
 (ix)(A) actively supervise:
 (I) any ALM sponsored by the entity; and
 (II) any BLM who is assigned to oversee the mortgage loan origination activities of a branch office; and

(B) remain personally responsible and accountable for adequate supervision of all sponsored mortgage loan originators, unlicensed staff, and entity operations throughout all locations.

(c) An LM who is designated as a branch lending manager in the nationwide database shall:

(i) work from the branch office the LM is assigned to manage;

(ii) personally oversee all mortgage loan origination activities conducted through the branch office; and

(iii) personally supervise all mortgage loan originators and unlicensed staff affiliated with the branch office.

(d) Prohibited conduct. An LM who engages in any prohibited activity shall be subject to discipline under Sections 61-2c-401 through 405. An LM may not engage in any activity that is prohibited for a mortgage loan originator or a mortgage entity.

(3) Mortgage entity.

(a) Affirmative duties. A mortgage entity that fails to fulfill any affirmative duty shall be subject to discipline under Sections 61-2c-401 through 405. A mortgage entity shall:

(i) remit to any third party service provider the fee(s) that have been collected from a borrower on behalf of the third party service provider, including:

- (A) appraisal fees;
- (B) inspection fees;
- (C) credit reporting fees; and
- (D) insurance premiums;

(ii) retain and dispose of records according to R162-2c-302; and

(iii) comply with a division request for information within 10 business days of the date of the request;

(iv)(A) notify the division of the location from which the entity's PLM will work; and

(B) if the entity originates Utah loans from a location where the PLM is not present to oversee and supervise activities related to the business of residential mortgage loans, assign a separate LM to serve as the BLM per Section 61-2c-102(1)(e); and

(v) if using an incentive program, strictly comply with Subsection R162-2c-301b.

(b) Prohibited conduct. A mortgage entity shall be subject to discipline under Sections 61-2c-401 through 405 if:

(i) any sponsored mortgage loan originator or [P]LM engages in any prohibited conduct; or

(ii) any unlicensed employee performs an activity for which licensure is required.

(4) Reporting unprofessional conduct.

(a) The division shall report in the nationwide database any final disciplinary action taken against a licensee for unprofessional conduct.

(b) A licensee may challenge the information entered by the division into the nationwide database pursuant to Section 63G-2-603.

(5) School.

(a) Affirmative duties. A school that fails to fulfill any affirmative duty shall be subject to discipline under Sections 61-2c-401 through 405. A school shall:

(i) within 15 calendar days of any material change in the information outlined in R162-2c-203(1)(b), provide to the division written notice of the change;

(ii) with regard to the criminal history disclosure required under R162-2c-203(1)(b)(ix[~~h~~]),

(A) obtain each student's signature before allowing the student to participate in course instruction;

(B) retain each signed criminal history disclosure for a minimum of two years; and

(C) make any signed criminal history disclosure available to the division upon request;

(iii) maintain a record of each student's attendance for a minimum of five years after enrollment;

(iv) upon request of the division, substantiate any claim made in advertising materials;

(v) maintain a high quality of instruction;

(vi) adhere to all state laws and regulations regarding school and instructor certification;

(vii) provide the instructor(s) for each course with the required course content outline;

(viii) require instructors to adhere to the approved course content;

~~[(ix)(A) at the conclusion of each class, require each student to complete a standard evaluation form as provided by the division; and~~

~~and (B) return the completed evaluation forms to the division in a sealed envelope within 10 days of the last class session; and~~

(ix) comply with a division request for information within 10 business days of the date of the request;[-]

~~(x) upon completion of the course requirements, provide a certificate of completion to each student; and~~

~~(xi) ensure that the material is current in courses taught on:~~

~~(A) Utah statutes;~~

~~(B) Utah administrative rules;~~

~~(C) federal laws; and~~

~~(D) federal regulations.~~

(b) Prohibited conduct. A school that engages in any prohibited activity shall be subject to discipline under Sections 61-2c-401 through 405. A school may not:

(i) accept payment from a student without first providing to that student the information outlined in R162-2c-203(1)(b)(vi[~~*~~]) through (ix[~~h~~]);

(ii) continue to operate after the expiration date of the school certification and without renewing;

(iii) continue to offer a course after its expiration date and without renewing;

- (iv) allow an instructor whose instructor certification has expired to continue teaching;
- (v) allow an individual student to earn more than eight credit hours of education in a single day;
- (vi) award credit to a student who has not complied with the minimum attendance requirements;
- (vii) allow a student to obtain credit for all or part of a course by taking an examination in lieu of attending the course;
- (viii) give valuable consideration to a person licensed with the division under Section 61-2c for referring students to the school;
- (ix) accept valuable consideration from a person licensed with the division under Section 61-2c for referring students to a licensed mortgage entity;
- (x) allow licensed mortgage entities to solicit prospective mortgage loan originators at the school during class time or during the 10-minute break that is permitted during each hour of instruction;
- (xi) require a student to attend any program organized for the purpose of solicitation;
- (xii) make a misrepresentation in its advertising;
- (xiii) advertise in any manner that denigrates the mortgage profession;
- (xiv) advertise in any manner that disparages a competitor's services or methods of operation;
- (xv) advertise or teach any course that has not been certified by the division;
- (xvi) advertise a course with language that indicates division approval is pending or otherwise forthcoming; or
- (xvii) attempt by any means to obtain or to use in its educational offerings the questions from any mortgage examination unless the questions have been dropped from the current bank of exam questions.

(6) Instructor.

(a) Affirmative duties. An instructor who fails to fulfill any affirmative duty shall be subject to discipline under Sections 61-2c-401 through 405. An instructor shall:

(i) adhere to the approved outline for any course taught; and
~~[(ii)(A) at the conclusion of each class, require each student to complete a standard evaluation form as provided by the division; and~~

~~[(B) return the completed evaluation forms to the division in a sealed envelope within 10 days of the last class session; and~~

ii(i) comply with a division request for information within 10 business days of the date of the request.

(b) Prohibited conduct. An instructor who engages in any prohibited activity shall be subject to discipline under Sections 61-2c-401 through 405. An instructor may not:

(i) continue to teach any course after the instructor's certification has expired and without renewing the instructor's certification; or

(ii) continue to teach any course after the course has expired and without renewing the course certification.

KEY: residential mortgage, loan origination, licensing, enforcement

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

Authorizing, and Implemented or Interpreted Law: 61-2c-103(3); 61-2c-402(4)(a)

Commerce, Real Estate **R162-2e** Appraisal Management Company Administrative Rules

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 37677
 FILED: 05/31/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to clarify who is an employee of an Appraisal Management Company (AMC) and the conditions under which an employee could perform an appraisal.

SUMMARY OF THE RULE OR CHANGE: This amendment adds a definition for the term "employee" that is derived from the United States tax code and defines the employment relationship for the newly clarified unprofessional conduct provision. The unprofessional conduct provision clarifies that an AMC can act either as an AMC or as an appraisal firm. If acting in the capacity as an AMC, the AMC cannot use its own employee to complete an appraisal assignment. If acting in the capacity as an appraisal firm, the entity cannot use its own employee without first disclosing to the client the capacity in which it is acting. Acting as an appraisal firm or company does not change or impact the requirement that an appraiser who performs the appraisal must be licensed pursuant to Title 61, Chapter 2g.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-2e-103 and Section 61-2e-307 and Subsection 61-2e-102(4)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** No new programs or sections will be necessary to implement this rule change. The Division already has the staff and budget necessary to investigate and enforce this requirement. Therefore, the state budget will not have any cost or savings as a result of this rule amendment.

◆ **LOCAL GOVERNMENTS:** Local governments are not required to comply with or enforce the rules governing the appraisal industry. Therefore, no fiscal impact to local government will result from this filing.

◆ **SMALL BUSINESSES:** AMCs and their clients that are small businesses will be affected by this rule amendment. Requiring the disclosure may result in an increased cost to the AMC; however, the client small business may see savings in its compliance cost because it is being informed of the capacity in which the AMC is acting.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** AMCs and their clients will be affected by this rule amendment. Requiring the disclosure may result in an

increased cost to the AMC; however, the client small business may see savings in its compliance cost because it is being informed of the capacity in which the AMC is acting.

COMPLIANCE COSTS FOR AFFECTED PERSONS: AMCs and their clients will be affected by this rule amendment. Requiring the disclosure may result in an increased cost to the AMC; however, the client small business may see savings in its compliance cost because it is being informed of the capacity in which the AMC is acting.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Any cost an AMC might incur in disclosing to a client the role the entity expects to play in completing an appraisal assignment will vary among companies and cannot be estimated. It is anticipated that a typical AMC will be able to comply with this disclosure requirement by making a one-time amendment to its standard disclosure package. In this situation, there would be no related costs.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Ben Jensen by phone at 801-530-6603, by FAX at 801-526-4387, or by Internet E-mail at bjensen@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2013

AUTHORIZED BY: Francine Giani, Executive Director

R162. Commerce, Real Estate.

R162-2e. Appraisal Management Company Administrative Rules.

R162-2e-102. Definitions.

- (1) "Affiliation" means a business association:
- (a) between:
- (i) two individuals registered, licensed, or certified under Section 61-2b; or
- (ii) an individual registered, licensed, or certified under Section 61-2b and:
- (A) an appraisal entity; or
- (B) a government agency;
- (b) for the purpose of providing an appraisal service; and
- (c) regardless of whether an employment relationship exists between the parties.
- (2) The acronym "AMC" stands for appraisal management company.

(3) As used in Subsection R162-2e-201(3)(c)(ii), "business day" means a day other than:

- (a) a Saturday;
- (b) a Sunday;
- (c) a state or federal holiday; or
- (d) any other day when the division is closed for business.
- (4) "Client" is defined in Section 61-2e-102(10).

(5) "Competency statement" means a statement provided by the AMC to the appraiser that, at a minimum, requires the appraiser to attest that the appraiser:

- (a) is competent according to USPAP standards;
- (b) recognizes and agrees to comply with:
- (i) laws and regulations that apply to the appraiser and to the assignment;
- (ii) assignment conditions; and
- (iii) the scope of work outlined by the client; and
- (c) has access, either independently or through an affiliation pursuant to Subsection (1), to the records necessary to complete a credible appraisal, including:

- (i) multiple listing service data; and
- (ii) county records.

(6)(a) "Employee" means an individual:

(i) whose manner and means of work performance are subject to the right of control of, or are controlled by, another person; and

(ii) whose compensation for federal income tax purposes is reported, or is required to be reported, on a W-2 form issued by the controlling person.

(b) "Employee" does not include an independent contractor who performs duties other than at the discretion of, and subject to the supervision and instruction of, another person.

(c) For purposes of applying Subsection R162-2e-401(1)(g), an appraiser who completes an assignment is considered to be an employee of the AMC that offers the assignment if:

(i) this subsection (a) describes the employment relationship between the appraiser and the AMC; or

(ii) pursuant to this subsection (a), the appraiser is an employee of a company:

(A) that is wholly owned by the AMC; or

(B) in which the AMC owns a controlling interest.

(7)(6) "Select" means:

(a) for purposes of composing the AMC appraiser panel, to review and evaluate the qualifications of an appraiser who applies to be included on the AMC's appraiser panel; and

(b) for purposes of assigning an appraisal activity to an appraiser:

(i) to choose from the AMC's appraiser panel an individual appraiser or appraisal entity to complete an assignment; or

(ii) to compile, from among the appraisers included in the AMC's appraiser panel, an electronic distribution list of appraisers to whom an assignment will be offered through e-mail.

(8)(7) The acronym "USPAP" stands for Uniform Standards of Professional Appraisal Practice.

R162-2e-401. Unprofessional Conduct.

(1) An [AMC]entity that is registered or required to be registered with the division as an AMC pursuant to Section 61-2e-201 commits unprofessional conduct if the entity[AMC]:

(a) requires an appraiser to modify any aspect of the appraisal report, unless the modification complies with Section 61-2e-307;

(b) unless first prohibited by the client or applicable law, prohibits or inhibits an appraiser from contacting:

- (i) the client;
- (ii) a person licensed under Section 61-2c or Section 61-2f;

or

(iii) any other person with whom the appraiser reasonably needs to communicate in order to obtain information necessary to complete a credible appraisal report;

(c) requires the appraiser to do anything that does not comply with:

- (i) USPAP; or
- (ii) assignment conditions and certifications required by the client;

(d) makes any portion of the appraiser's fee or the AMC's fee contingent on a favorable outcome, including but not limited to:

- (i) a loan closing; or
- (ii) a specific dollar amount being achieved by the appraiser in the appraisal report;

(e) requests, for the purpose of facilitating a mortgage loan transaction,

- (i) a broker price opinion; or
- (ii) any other real property price or value estimation that does not qualify as an appraisal; [ø]

(f) charges an appraiser:

- (i) for a service not actually performed; or
- (ii) for a fee or cost that:

(A) is not accurately disclosed pursuant to Subsection R162-2e-304(1)(a)(ii); or

(B) exceeds the actual cost of a service provided by a third party[.];

(g) uses or retains an employee to complete an appraisal assignment without first disclosing to the client that the appraiser is an employee of the company, such that the company is acting in the capacity of an appraisal firm rather than as an AMC pursuant to Utah Code Subsection 61-2e-102(4); or

(h) when acting in the capacity of an AMC pursuant to Utah Code Subsection 61-2e-102(4), uses or retains an employee appraiser to complete an appraisal assignment.

(2) An AMC commits unprofessional conduct and creates a violation by the appraiser of R162-2g-502b(1)(f)[+07.1.6] if the AMC requires the appraiser to:

- (a) accept full payment; and
- (b) remit a portion of the full payment back to the AMC.

KEY: administrative proceedings, appraisal management company, conduct, registration

Date of Enactment or Last Substantive Amendment: [September 26, 2012]2013

Authorizing, and Implemented or Interpreted Law: 61-2e-102(4); 61-2e-103; 61-2e-305; 61-2e-[304]307; 61-2e-402(1)

**Governor, Economic Development,
Pete Suazo Utah Athletic Commission
R359-1
Pete Suazo Utah Athletic Commission
Act Rule**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37672

FILED: 05/30/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to remove the standing eight-count from professional boxing rules.

SUMMARY OF THE RULE OR CHANGE: The standing eight-count rule in professional boxing that has been used in professional boxing in Utah is not consistent with the Unified Rules of Professional Boxing adopted by the Association of Boxing Commissions (ABC).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63C, Chapter 11

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This administrative rule change removes the standing eight-count provision within the sport of professional boxing. Removing this provision will have no cost or savings impact to the state budget.

♦ **LOCAL GOVERNMENTS:** This administrative rule change removes the standing eight-count provision within the sport of professional boxing. Removing this provision will have no cost or savings impact to the local government.

♦ **SMALL BUSINESSES:** This administrative rule change removes the standing eight-count provision within the sport of professional boxing. Removing this provision will have no cost or savings impact to the small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This administrative rule change removes the standing eight-count provision within the sport of professional boxing. Removing this provision will have no cost or savings impact to the persons other than small businesses or local governments. Professional boxing referees will have to be informed of the rule change after it is incorporated prior to officiating any professional boxing events.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Removing the standing eight-count will not have any impact on compliance costs for anyone involved with the sport of professional boxing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The standing eight-count is no longer used in professional boxing in other jurisdictions. It is still used in amateur boxing which is not regulated by the Pete Suazo Utah Athletic Commission.

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

GOVERNOR
ECONOMIC DEVELOPMENT,
PETE SUAZO UTAH ATHLETIC COMMISSION
60 E SOUTH TEMPLE 3RD FLR
SALT LAKE CITY, UT 84111
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Bill Colbert by phone at 801-538-8876, by FAX at 801-538-8888, or by Internet E-mail at bcolbert@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2013

AUTHORIZED BY: Bill Colbert, Director

R359. Governor, Economic Development, Pete Suazo Utah Athletic Commission.

R359-1. Pete Suazo Utah Athletic Commission Act Rule.

R359-1-611. Boxing - Injuries and Cuts.

(1) When an injury or cut is produced by a fair blow and because of the severity of the blow the contest cannot continue, the injured boxing contestant shall be declared the loser by technical knockout.

(2) If a contestant intentionally fouls his opponent and an injury or cut is produced, and due to the severity of the injury the contestant cannot continue, the contestant who commits the foul shall be declared the loser by disqualification.

(3) If a contestant receives an intentional butt or foul and the contest can continue, the referee shall penalize the contestant who commits the foul by deducting two points. The referee shall notify the judges that the injury or cut has been produced by an intentional unfair blow so that if in the subsequent rounds the same injury or cut becomes so severe that the contest has to be suspended, the decision will be awarded as follows:

(a) a technical draw if the injured contestant is behind on points or even on a majority of scorecards; and

(b) a technical decision to the injured contestant if the injured contestant is ahead on points on a majority of the scorecards.

(4) If a contestant injures himself trying to foul his opponent, the referee shall not take any action in his favor, and the injury shall be considered as produced by a fair blow from his opponent.

(5) If a contestant is fouled accidentally during a contest and can continue, the referee shall stop the action to inform the judges and acknowledge the accidental foul. If in subsequent rounds, as a result of

legal blows, the accidental foul injury worsens and the contestant cannot continue, the referee shall stop the contest and declare a technical decision with the winner being the contestant who is ahead on points on a majority of the scorecards. The judges shall score partial rounds. If a contestant is accidentally fouled in a contest and due to the severity of the injury the contestant cannot continue, the referee shall rule as follows:

(a) if the injury occurs before the completion of four rounds, declare the contest a technical draw; or

(b) if the injury occurs after the completion of four rounds, declare that the winner is the contestant who has a lead in points on a majority of the scorecards before the round of injury. The judges shall score partial rounds.

(6) If in the opinion of the referee, a contestant has suffered a dangerous cut or injury, or other physical or mental condition, the referee may stop the bout temporarily to summon the physician. If the physician recommends that the contest should not continue, the referee shall order the contest to be terminated.

(7) A fight shall not be terminated because of a low blow. The referee may give a contestant not more than five minutes if the referee believes a foul has been committed. Each contestant shall be instructed to return to his or her respective corner by the referee. The contestants may sit in their respective corners with their mouthpiece removed. After removing their contestant's mouthpiece, the seconds must return to their seats. The seconds may not coach, administer water, or in any other way attend to their contestant, except to replace the mouthpiece when the round is ready to resume.

~~[(8) If a contestant is knocked down or given a standing mandatory count of eight or a combination of either occurs three times in one round, the contest shall be stopped and a technical knockout shall be awarded to the opponent. The physician shall immediately enter the ring and examine the losing contestant.]~~

(8[9]) A physician shall immediately examine and administer aid to a contestant who is knocked out or injured.

(9[10]) When a contestant is knocked out or rendered incapacitated, the referee or second shall not handle the contestant, except for the removal of a mouthpiece, unless directed by the physician to do so.

(10[11]) A contestant shall not refuse to be examined by a physician.

(11[12]) A contestant who has been knocked out shall not leave the site of the contest until one hour has elapsed from the time of the examination or until released by the physician.

(12[13]) A physician shall file a written report with the Commission on each contestant who has been knocked out or injured.

R359-1-612. Boxing - Knockouts.

(1) A boxing contestant who is knocked down shall take a minimum mandatory count of eight.

~~(2) [If a boxing contestant is dazed by a blow and, in the referee's opinion, is unable to defend himself, the referee shall give a standing mandatory count of eight or stop the contest. If on the count of eight the boxing contestant, in the referee's opinion, is unable to continue, the referee may count him out on his feet or stop the contest on the count of eight.]~~

~~[(3)]~~ In the event of a knockdown, the timekeeper shall immediately start the count loud enough to be heard by the referee, who, after waving the opponent to the farthest neutral corner, shall pick up the count from the timekeeper and proceed from there. The referee

shall stop the count if the opponent fails to remain in the corner. The count shall be resumed when the opponent has returned to the corner.

([4]3) The timekeeper shall signal the count to the referee.

([5]4) If the boxing contestant taking the count is still down when the referee calls the count of ten, the referee shall wave both arms to indicate that the boxing contestant has been knocked out. The referee shall summon the physician and shall then raise the opponent's hand as the winner. The referee's count is the official count.

([6]5) If at the end of a round a boxing contestant is down and the referee is in the process of counting, the gong indicating the end of the round shall not be sounded. The gong shall only be sounded when the referee gives the command to box indicating the continuation of the bout.

([7]6) In the final round, the timekeeper's gong shall terminate the fight.

([8]7) A technical knockout decision shall be awarded to the opponent if a boxing contestant is unable or refuses to continue when the gong sounds to begin the next round. The decision shall be awarded in the round started by the gong.

([9]8) The referee and timekeeper shall resume their count at the point it was suspended if a boxing contestant arises before the count of ten is reached and falls down again immediately without being struck.

([10]9) If both boxing contestants go down at the same time, counting will be continued as long as one of them is still down or until the referee or the ringside physician determines that one or both of the boxing contestants needs immediate medical attention. If both boxing contestants remain down until the count of ten, the bout will be stopped and the decision will be scored as a double knockout.

KEY: licensing, boxing, unarmed combat, white-collar contests
Date of Enactment or Last Substantive Amendment: [~~June 30, 2012~~]**2013**
Notice of Continuation: March 30, 2012
Authorizing, and Implemented or Interpreted Law: 63C-11-101 et seq.

**Health, Health Care Financing,
 Coverage and Reimbursement Policy
 R414-14A-26
 Payment for Nursing Facility, ICF/ID,
 and Freestanding Inpatient Hospice
 Unit Room and Board**

**NOTICE OF PROPOSED RULE
 (Amendment)**

DAR FILE NO.: 37656
 FILED: 05/22/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is necessary to comply with the

mandate for concurrent care as found in the Patient Protection and Affordable Care Act. This change will promote the ability for children to receive true concurrent care rather than having to make a choice between hospice care and skilled care in a facility.

SUMMARY OF THE RULE OR CHANGE: This amendment updates the Medicaid Hospice program to reflect the hospice room and board payment rate at 100% of the amount a child would have received in a skilled nursing facility or an intermediate care facility for persons with intellectual disabilities (ICF/ID).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** Based on an estimate of four children who would elect to receive concurrent hospice care and skilled facility care for one year, the Department anticipates a cost to the General Fund of about \$16,000 and a cost in federal funds of about \$36,600.
- ◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund the Medicaid Hospice program nor provide hospice care services to Medicaid clients.
- ◆ **SMALL BUSINESSES:** Small businesses will share some of the total annual revenue noted below for other persons or entities.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Hospice care providers may see an increase in total annual revenue of about \$52,600 as a result of this change. Further, Medicaid clients who elect to receive concurrent hospice care and skilled facility care will see out-of-pocket savings based on this total amount.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this amendment can only result in an increase in revenue to a hospice care provider, and can only result in out-of-pocket savings to a Medicaid client who elects to receive both concurrent hospice care and skilled facility care.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will provide slight increases in reimbursement to providers in long term care facilities and ICFs.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-14A. Hospice Care.

R414-14A-26. Payment for Nursing Facility, ICF/ID, and Freestanding Inpatient Hospice Unit Room and Board.

(1) For clients in a nursing facility, ICF/ID, or a freestanding hospice inpatient unit who elect to receive hospice care from a Medicaid enrolled hospice provider, Medicaid will pay the hospice provider an additional per diem for routine home care services to cover the cost of room and board in the facility. For nursing facilities and ICFs/ID, the room and board rate is 95 % of the amount that the Department would have paid to the nursing facility or ICF/ID provider for that client if the client had not elected to receive hospice care. For freestanding hospice inpatient facilities, the room and board rate is 95% of the statewide average paid by Medicaid for nursing facility services.

(a) For clients under 21 years of age, the room and board rate is 100% of the amount that the Department would have paid to the nursing facility or ICF/ID for that client if the client had not elected to receive hospice care.

(2) The Department shall reimburse the hospice provider for room and board. Upon receiving payment for room and board, the hospice provider shall reimburse the nursing facility. The reimbursement is payment in full for the services described in Section R414-14A-15. The facility cannot bill Medicaid separately.

(3) If a hospice enrollee in a nursing facility, ICF/ID, or a freestanding hospice inpatient unit has a monetary obligation to contribute to his cost of care in the facility, the facility must collect and retain the contribution. The hospice must reimburse the facility the reduced amount received from Medicaid directly or from a Medicaid Health Plan.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: [~~February 1, 2012~~2013]

Notice of Continuation: September 30, 2009

Authorizing, and Implemented or Interpreted Law: 26-1-4.1; 26-1-5; 26-18-3

Human Services, Child and Family Services

R512-41

Qualifying Adoptive Families and Adoption Placement

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37645

FILED: 05/16/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the requirements that a foster parent must comply with Section 78B-6-137.

SUMMARY OF THE RULE OR CHANGE: This rule is being revised to clarify the requirements of Section 78B-6-137, which states that a foster parent or foster parents must not be cohabiting with another person in a sexual relationship.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-4a-102 and Section 62A-4a-105 and Section 62A-4a-205.6

MATERIALS INCORPORATED BY REFERENCE:

♦ Adds Pub. L. 110-351, published by U.S. Government Printing Office, 10/07/2008

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There will be no increase in cost or savings to the state budget because these proposed changes do not increase workload that would require additional staff or other costs.

♦ **LOCAL GOVERNMENTS:** Child and Family Services determined that local governments are not affected by the rule and will have no fiscal impact.

♦ **SMALL BUSINESSES:** Child and Family Services determined that small businesses are not affected by the rule and will have no fiscal impact.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** While individuals may be foster parents for whom this rule applies, there is no expected fiscal impact for individuals in the category of "persons other than small businesses, businesses, or local government entities."

COMPLIANCE COSTS FOR AFFECTED PERSONS: Child and Family Services determined that there will be no compliance costs for affected persons because there are no specific costs involved with the changes being made to this rule.

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

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov
◆ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2013

AUTHORIZED BY: Brent Platt, Director

R512. Human Services, Child and Family Services.

R512-41. Qualifying Adoptive Families and Adoption Placement.

R512-41-1. Purpose and Authority.

(1) The purpose of this rule is to define the requirements used to qualify adoptive parents or individuals and the criteria for adoption placement used by the Division of Child and Family Services (Child and Family Services).

(2) This rule is authorized by Section 62A-4a-102. This rule also incorporates by reference Public Law 110-351 (2008).

R512-41-2. Definitions.

(1) For the purpose of this rule the following definitions apply:

(a) "Adoptive parent(s)" means a family or individual who completes Child and Family Services training for prospective adoptive parent(s) and is approved by a licensed child placement agency or by Child and Family Services.

(b) "Cohabiting" means residing with another person and being involved in a sexual relationship.

(c) "Involved in a sexual relationship" means any sexual activity and conduct between persons.

(d) "Permanency" means the establishment and maintenance of a permanent living situation for a child to give the child an internal sense of family stability and belonging and a sense of self that connects the child to his or her past, present, and future.

(e) "Residing" means living in the same household on an uninterrupted or an intermittent basis.

R512-41-3. Requirements for Adoptive Parent(s).

(1) Prospective adoptive parent(s) who apply to adopt a child in the custody of Child and Family Services, including kin or

Child and Family Services employees, must meet all of the following requirements, pursuant to Rule R512-40:

(a) Complete the adoption training program approved by Child and Family Services;

(b) Be assessed and approved as adoptive parent(s) following completion of a home study by a licensed child placement agency or by Child and Family Services;

(c) Obtain a foster care license issued by the Department of Human Services, Office of Licensing, or meet the same standards, or receive a written waiver from Child and Family Services of a standard;

(d) Receive a determination by Child and Family Services that no conflict of interest exists in the adoption process.

R512-41-4. Adoption Evaluation Requirements.

(1) An adoption evaluation must be consistent with the standards of the Child Welfare League of America (the evaluation may be done by a licensed child placement agency or Child and Family Services) and must include the following:

(a) An autobiography or psychosocial information gathered from the prospective adoptive parent(s) and family members;

(b) A behavioral assessment of the prospective adoptive parent(s) and children living at home;

(c) A ~~statement~~[~~declaration~~] that applicants are not cohabiting in a relationship that is not a legal marriage and are in compliance with Section 78B-6-117;

(d) A health status verification of the prospective adoptive parent(s) and children living at home;

(e) A verification of financial status;

(f) An assessment of home safety and health;

(g) A criminal background check of all adults present in the home, including a national fingerprint-based check of prospective adoptive parents that is approved according to criteria specified in Section 62A-2-120;

(h) A screening of all adults present in the home against the child abuse data base, including for prospective adoptive parents a check of child abuse registries in any states in which the prospective adoptive parents have resided in the five years prior to application to adopt;

(i) An assessment of the prospective adoptive parent(s) parenting skills;

(k) Recommendation of the types of children that may be appropriate for the prospective adoptive parent(s).

R512-41-5. Matching the Child and the Adoptive Parent(s).

(1) In the matching process, the selection of the adoptive parent(s) will be in the best interest of the child.

(2) The decision must be based on a thorough assessment of the child's current and potential development, medical, emotional, and educational needs.

(3) The capacity of the prospective adoptive parent(s) to successfully meet the child's needs and to love and accept the child as a fully integrated member of the family must be considered.

(4) The child's preference may be considered, if the child has the capacity to express a preference.

(5) Sibling groups should not be separated.

(a) If siblings are not placed together and there are no safety concerns that preclude the siblings being together, the adoption committee should reconsider a family for all the siblings to be adopted together.

(b) If the siblings are not able to be adopted together or if being taken from a current family would create undue trauma to the child, arrangements should be made to allow life-long contact to be pursued between the adoptive families of the separated siblings.

(6) Foster care parent(s) (or other caregiver with physical custody) of the child may be given preferential consideration for adoption if the child has substantial emotional ties with the foster parent(s)/caregiver and if removal of the child from the foster parent(s)/caregiver would be detrimental to the child's well-being.

(7) Geographic boundaries alone should not present barriers or delays to the selection of adoptive parent(s).

(8) The Indian Child Welfare Act, 25 USC 1915 (January 3, 2007), takes precedent for an adoption of an Indian child who is a member of a federally recognized tribe or Alaskan native village.

(9) Placements will be made in accordance with the Interethnic Adoption Act, 42 USC 1996b [(January 3, 2007)](2010).

(10) Child and Family Services gives priority for adoptive placements to families in which both a man and a woman are legally married under the laws of this state or valid proof that a court or administrative order has established a valid common law marriage as specified in Section 30-1-4.5. An individual who is not cohabiting may also be considered as an adoptive parent, if the Region Director determines it is in the best interest of the child.

R512-41-6. Adoption Decision.

(1) Permanency decisions should be made in a timely manner, recognizing the child's developmental needs and sense of time. Child and Family Services shall make intensive efforts to place the child with the adoptive parent(s) within 30 days after the court has freed the child for adoption.

(2) When the child is not residing with the family that will adopt the child, Child and Family Services will appoint and convene an adoption committee or committees to select adoptive parent(s) in the best interest of the child and to determine the level of adoption assistance, if any. The adoption committee is also responsible for recommending removal of the child from a placement.

(3) The adoption committee will consist of at least three members to include senior-level Child and Family Services staff and one or more members from an outside agency with expertise in adoption or foster care.

(4) Anyone who has information regarding the child and the potential matching families may be invited by the adoption committee to present information but not to participate in the deliberations. The adoption committee will reach its decision through consensus. If consensus cannot be reached, the adoption committee will submit their recommendation to the Region Director. The Region Director may confer with the Child and Family Services Director for the final decision.

(5) The adoption committee will make and retain a written record of their proceedings. All proceedings are confidential.

(6) Any member of the adoption committee who has a potential conflict of interest must recuse himself or herself from the proceeding.

(7) Child and Family Services will send written notification of selection to the adoptive parent(s).

(8) Child and Family Services shall provide detailed information about the child to the prospective adoptive parent(s), allowing sufficient time for the prospective adoptive parent(s) to make an informed decision regarding placement of the child. The

information given to the prospective adoptive parent(s) must include detailed information available in writing that is important to raise the child. Release of all documents is subject to the Government Records Management Act. The prospective adoptive parent(s) shall be advised of possible financial and medical assistance available to meet the special needs of the child. Child and Family Services and the prospective adoptive parent(s) will acknowledge receipt of the information by signing a Child and Family Services' information disclosure form. Child and Family Services shall respond to questions or concerns of the potential adoptive parent(s). The prospective adoptive parent(s) shall have the opportunity to meet the child prior to permanent placement.

(9) A family or individual that is not selected for an adoption placement of a specific child shall have no right to appeal the decision, unless the parent(s) not selected for the adoptive placement is the child's current foster parent(s) and the foster parent(s) have completed all requirements. If the foster parent(s) are not selected for the adoptive placement, the foster parent(s) due process rights for removal of a child apply (Rule R512-31).

(10) When the approved adoptive parent(s) agree to accept the placement of a child for adoption, the adoptive parent(s) and a representative from Child and Family Services shall sign an agreement for the intent to adopt a specific child on a form provided by Child and Family Services.

(11) When the adoptive parent(s) agree to accept the placement of a child who is not free for adoption, the parent(s) shall sign Child and Family Services' foster care agreement.

R512-41-7. Information Regarding the Adoptive Parent(s).

(1) No identifying information regarding the adoptive parent(s) shall be released to birth families without the written consent of the adoptive parent(s).

R512-41-8. Placement.

(1) Child and Family Services will make every effort to make a smooth and effective transition of the child to the adoptive parent(s) with the cooperation of the foster family and others who have a supportive relationship with the child. All out-of-home requirements continue to be applicable until the adoption is finalized.

(2) The adoptive parent(s) will have access to all relevant information in the case record to help them understand and accept the child and preserve the child's history. Child and Family Services will inform the adoptive parent(s) of community services and adoption assistance available before and after the adoption is final.

(3) Child and Family Services will develop a Child and Family Plan within 30 days of placement and supervise the adoptive parent(s), including frequent visits with the child for at least the first six months after placement.

(4) Child and Family Services' supervision will continue until the adoption is final.

R512-41-9. Adoption Disruption/Removal of a Child from Adoptive Parent(s) Prior to Finalization.

(1) Child and Family Services shall consider removal of a child before an adoption is finalized if the adoptive parent(s) request removal or if serious circumstances impair the child's security or development.

(2) Prior to removal, Child and Family Services shall respond to the adoptive parent(s)' concerns in a timely manner, counsel

with the adoptive parent(s), and, if possible and appropriate, offer further treatment, including intensive in-home services or temporary removal of the child from the home for respite purposes.

(3) When removal is recommended, the adoption committee shall review the placement progress and present situation, and shall decide to either continue placement with further services or to remove the child from the home. The Region Director will review and approve the decision.

(4) If the adoption committee decides to remove the child, a Notice of Agency Action shall be sent to the adoptive parent(s), notifying them of their due process rights. The adoptive parent(s) shall be offered the same rights as those offered a foster family regarding removal of a child (Rule R512-31).

(5) Child and Family Services will reconsider any potential kinship caregivers if the child is disrupted or removed from an adoptive placement or a permanent placement has not been identified.

R512-41-10. Adoption Finalization and Post Adoption.

(1) Before an adoption is final, the adoption assistance committee shall assess if the child qualifies for adoption assistance and, when appropriate, what level of monthly subsidy the child is eligible to receive (Rule R512-43).

(2) The prospective adoptive family shall be made aware of available post adoption resources.

R512-41-11. Adult Adoptee or Adoptive Parent(s) Request for Records.

(1) The adoption records of Child and Family Services shall be made available to the adoptive parent(s) or adult adoptee upon written request in accordance with the Government Records Access Management Act, Title 63G, Chapter 2. An adult adoptee may also register with the Utah Department of Health Adoption Registry, Section 78B-6-144.

KEY: child welfare, adoption

Date of Enactment or Last Substantive Amendment: [September 15, 2010]2013

Notice of Continuation: May 7, 2009

Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105; 62A-4a-205.6

Human Services, Child and Family
Services
R512-302
Out-of-Home Services, Responsibilities
Pertaining to an Out-of-Home
Caregiver

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37646

FILED: 05/16/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the requirements that a foster parent must comply with Section 78B-6-137.

SUMMARY OF THE RULE OR CHANGE: This rule is being revised to clarify the requirements of Section 78B-6-137, which states that a foster parent or foster parents must not be cohabiting with another person in a sexual relationship.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Pub. L. No. 109-248 and Section 62A-4a-102 and Section 62A-4a-105 and Section 63G-4-104 and Section 78A-6-308

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There will be no increase in cost or savings to the state budget because these proposed changes do not increase workload that would require additional staff or other costs.

◆ **LOCAL GOVERNMENTS:** Child and Family Services determined that local governments are not affected by the rule and will have no fiscal impact.

◆ **SMALL BUSINESSES:** Child and Family Services determined that small businesses are not affected by the rule and will have no fiscal impact.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** While individuals may be foster parents for whom this rule applies, there is no expected fiscal impact for individuals in the category of "persons other than small businesses, businesses, or local government entities."

COMPLIANCE COSTS FOR AFFECTED PERSONS: Child and Family Services determined that there will be no compliance costs for affected persons because there are no specific costs involved with the changes being made to this rule.

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

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov
◆ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2013

AUTHORIZED BY: Brent Platt, Director

R512. Human Services, Child and Family Services.

R512-302. Out-of-Home Services, Responsibilities Pertaining to an Out-of-Home Caregiver.

R512-302-1. Purpose and Authority.

(1) The purposes of this rule are to clarify:

(a) Qualification, selection, payment criteria, and roles and responsibilities of a caregiver while a child is receiving Out-of-Home Services, and

(b) Roles and responsibilities of Child and Family Services to a caregiver for a child receiving Out-of-Home Services in accordance with Rule R512-300.

(2) This rule is authorized by Section 62A-4a-102. Sections 62A-4a-105 and 62A-4a-106 authorize Child and Family Services to provide Out-of-Home Services and 42 USC Section 672 authorizes federal foster care. 42 USC Section 672 [(2007)](2010), and 45 CFR Parts 1355 and 1356 (2008) are incorporated by reference.

R512-302-2. Definitions.

In addition to definitions in R512-300-2, the following terms are defined for the purposes of this rule:

(1) "Caregiver" means a licensed resource family, also known as a licensed foster family, and may also include a licensed kin provider or a foster family certified by a contract provider that is licensed as a child placing agency. Caregiver does not include a group home or residential facility that provides Out-of-Home Services under contract with Child and Family Services.

(2) "Cohabiting" means residing with another person and being involved in a sexual relationship.

(3) "Involved in a sexual relationship" means any sexual activity and conduct between persons.

(4) "Out-of-Home Services" means those services described in Rule R512-300.

(5) "Residing" means living in the same household on an uninterrupted or an intermittent basis.

R512-302-3. Qualifying as a Caregiver for a Child Receiving Out-of-Home Services.

(1) An individual or couple shall be licensed by the Office of Licensing as provided in Rule R501-12 to qualify as a caregiver for a child receiving Out-of-Home Services. After initial licensure, the caregiver shall take all steps necessary for timely licensure renewal to ensure that the license does not lapse.

(2) A caregiver qualifying for an initial license and any adults living in the home shall complete criminal background checks required by Section 78A-6-308 and P.L. 109-248 before a child in state custody may be placed in that home.

(3) Child and Family Services or the contract provider shall provide pre-service training required in Rule R501-12-5 after the provider has held an initial consultation with the individual or couple to clearly delineate duties of caregivers.

(4) The curriculum for pre-service and in-service training shall be developed by the contract provider and approved by Child and Family Services according to Child and Family Services' contract with the provider.

(5) Child and Family Services or the contract provider shall verify in writing a caregiver's completion of training required for licensure as provided in Rule R501-12-5.

(6) Child and Family Services or the contract provider shall also verify in writing a caregiver's completion of supplemental training required for serving children with more difficult needs.

(7) Once a license is issued, the caregiver's name and identifying information may be shared with the court, Assistant Attorney General, Guardian ad Litem, foster parent training contract provider, resource family cluster group, foster parent associations, the Department of Health, and the child's primary health care providers.

R512-302-4. Selection of a Caregiver for a Child Receiving Out-of-Home Services.

(1) A caregiver shall have the experience, personal characteristics, temperament, and training necessary to work with a child and the child's family to be approved and selected to provide Out-of-Home Services.

(2) An Out-of-Home caregiver shall be selected according to the caregiver's skills and abilities to meet a child's individual needs and, when appropriate, an ability to support both parents in reunification efforts and to consider serving as a permanent home for the child if reunification is not achieved. When dictated by a child's level of care needs, Child and Family Services may require one parent to be available in the home at all times.

(3) An Out-of-Home caregiver shall be selected according to the caregiver's compatibility with the child, as determined by Child and Family Services exercising its professional judgment. The best interest of the child shall be Child and Family Services' primary consideration when making a placement decision.

(a) Child and Family Services may consider the Out-of-Home caregiver's possession or use of a firearm or other weapon, espoused religious beliefs, or choice to school the child outside the public education system in accordance with Section 63G-4-104.

(b) Child and Family Services may consider the child's sex, age, behavior, and the composition of the foster family.

(4) A child in state custody shall be placed with an Out-of-Home caregiver who is fully licensed as provided in Rule R501-12. A child may be placed in a home with a probationary license only if the Out-of-Home caregiver is a child-specific placement.

(5) An Out-of-Home caregiver shall be given necessary information to make an informed decision about accepting responsibility to care for a child. The worker shall obtain all available necessary information about the child's permanency plan, family visitation plans, and needs such as medical, educational, mental health, social, behavioral, and emotional needs, for consideration by the caregiver.

(6) If the court has not given custody to a non-custodial parent or kin provider, to provide safety and maintain family ties, the child shall be placed in the least restrictive placement that meets the child's special needs and is in the child's best interests, according to the following priorities:

(a) A relative of the child.

(b) A friend designated by the custodial parent or guardian of the child, if the friend is a licensed foster parent.

(c) A former foster placement, shelter facility, or other foster placement designated by Child and Family Services.

(7) If a child is reentering custody of the state, the child's former Out-of-Home caregiver shall be given preference as provided in Section 62A-4a-206.1.

(8) A child's placement shall not be denied or delayed on the basis of race, color, or national origin of the Out-of-Home caregiver or the child involved.

(9) Selection of an Out-of-Home caregiver for an Indian child shall be made in compliance with the Indian Child Welfare Act, 25 USC Section 1915 (2007), which is incorporated by reference.

R512-302-5. Child and Family Services' Roles and Responsibilities to a Caregiver for a Child Receiving Out-of-Home Services.

(1) Child and Family Services shall actively seek the involvement of the caregiver in the child and family team process, including participation in the child and family team, completing an assessment, and developing the child and family plan as described in Rule R512-300-4.

(2) The child and family plan shall include steps for monitoring the placement and a plan for worker visitation and supports to the Out-of-Home caregiver for a child placed in Utah or out of state.

(3) In accordance with Section 62A-4a-205, additional weight and attention shall be given to the input of the child's caregiver in plan development.

(4) The caregiver shall be provided a copy of the completed child and family plan.

(5) The caregiver has a right to reasonable notice and may participate in court and administrative reviews for the child in accordance with Sections 78A-6-310 and 78A-6-317.

(6) Child and Family Services shall provide support to the caregiver to ensure that the child's needs are met, and to prevent unnecessary placement disruption.

(7) Options for temporary relief may include paid respite, non-paid respite, childcare, and babysitting.

(8) The worker shall provide the caregiver with a portable, permanent record that provides available educational, social, and medical history information for the child and that preserves vital information about the child's life events and activities while receiving Out-of-Home Services.

R512-302-6. Roles and Responsibilities of a Caregiver of a Child Receiving Out-of-Home Services.

(1) An Out-of-Home caregiver shall be responsible to provide daily care, supervision, protection, and experiences that enhance the child's development as provided in a written agreement entered into with Child and Family Services and the child and family plan.

(2) The caregiver shall be responsible to:

(a) Participate in the child and family team process.

(b) Provide input into the assessment and child and family plan development process.

(c) Complete goals and objectives of the plan relevant to the caregiver.

(d) Promptly communicate with the worker the child's progress and concerns and progress in completing the plan or regarding problems in meeting specified goals or objectives in advance of proposed completion time frames.

(e) Support and assist with parental visitation.

(3) The caregiver shall document individualized services provided for the child, when required, such as skills development or transportation.

(4) The caregiver shall maintain and update the child's portable, permanent record to preserve vital information about the child's life events, activities, health, social, and educational history while receiving Out-of-Home Services. The caregiver shall share relevant health and educational information during visits with appropriate health care and educational providers to ensure continuity of care for the child.

R512-302-7. Payment Criteria for a Caregiver of a Child Receiving Out-of-Home Services.

(1) An Out-of-Home caregiver shall receive payments according to the rate established for the child's need level, not upon the highest level of service the caregiver has been trained to provide.

(2) The daily rate for the monthly foster care maintenance payment provides for the child's board and room, care and supervision, basic clothing and personal incidentals, and may also include a supplemental daily payment based upon a child's medical need or to assist with care of a youth's child while residing with the youth in an Out-of-Home placement. Foster care maintenance may also include periodic one-time payments for special needs such as an initial clothing allowance, additional needs for a baby, additional clothing, gifts, lessons or equipment, recreation, non-tuition school expenses, and other needs recommended by the child and family team and approved by Child and Family Services.

(3) A caregiver may also be reimbursed for transporting a foster child for visitation with a parent or siblings, to participate in case activities such as child and family team meetings and reviews, and for transporting the child to activities beyond those normally required for a family. The caregiver must document all mileage on a form provided by Child and Family Services.

(4) The caregiver shall submit required documentation to receive payments for care or reimbursement for costs.

R512-302-8. Child Abuse Reporting and Investigation of a Caregiver Providing Out-of-Home Services.

(1) Investigation of any report or allegation of abuse or neglect of a child that allegedly occurs while the child is living with an Out-of-Home caregiver shall be investigated by staff designated for this purpose by the Department of Human Services or law enforcement as provided in Section 62A-4a-202.3.

R512-302-9. Removal of a Child from a Caregiver Providing Services.

(1) Removal of a child from a caregiver shall occur as provided in Section 62A-4a-206 and Rule R512-31.

R512-302-10. Cohabitation Not Permitted for Foster Parents.

(1) A foster parent or foster parents must ~~[complete a declaration of compliance]~~ comply with Section 78B-6-137 which states that they are not cohabiting with another person in a sexual relationship. Child and Family Services gives priority for foster care placements to families in which both a man and a woman are legally married or valid proof that a court or administrative order has established a valid common law marriage, Section 30-1-4.5. An individual who is not cohabiting may also be a foster parent if the

Region Director determines it is in the best interest of the child. Legally married couples and individuals who are not cohabiting and are blood relatives of the child in state custody may be foster parents pursuant to Section 78A-6-307.

KEY: child welfare

Date of Enactment or Last Substantive Amendment: [December 2, 2009]2013

Notice of Continuation: August 20, 2008

Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105; 63G-4-104; 78A-6-308; Pub. L. 109-248

Human Services, Recovery Services R527-5-3 Request for Release of Information

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37668
FILED: 05/30/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to reflect that the Office of Recovery Services (ORS) no longer accepts written requests for the release of information by e-mail.

SUMMARY OF THE RULE OR CHANGE: The change deletes Subsection R527-5-3(3), which allowed written requests for the release of information to be sent by e-mail. No other changes are proposed for this rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-11-107 and Section 62A-11-304.4 and Title 63G, Chapter 2

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** No costs are anticipated for the state budget. Receiving all records requests in writing where the agency can be assured of the requester's identity and rights to access agency records provides the agency a greater measure of confidence in the security of the information released.

◆ **LOCAL GOVERNMENTS:** No costs or savings are anticipated for local governments because ORS will continue to accept record requests by mail, by fax or by personal delivery.

◆ **SMALL BUSINESSES:** No costs or savings are anticipated for small businesses because ORS will continue to accept record requests by mail, by fax, and by personal delivery.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Compliance costs of this rule for persons other than small businesses, businesses or local government entities would only include nominal costs to submit a written request to the Agency to obtain records by mail, by fax or by personal

delivery. Because most requests for agency records are received by mail, the proposed rule change will not impact the compliance costs for these persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs of this rule for affected persons would only include nominal costs to submit a written request to the Agency to obtain records by mail, by fax or by personal delivery. Because most requests for agency records are received by mail, the proposed rule change will not impact the compliance costs for these affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no cost to businesses.

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

HUMAN SERVICES
RECOVERY SERVICES
515 E 100 S
SALT LAKE CITY, UT 84102-4211
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Catherine Taylor by phone at 801-536-8929, by FAX at 801-536-8509, or by Internet E-mail at catherinetaylor@utah.gov
◆ Kenneth Ransom by phone at 801-536-8948, by FAX at 801-536-8509, or by Internet E-mail at kransom@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2013

AUTHORIZED BY: Liesa Corbridge, Director

R527. Human Services, Recovery Services.**R527-5. Release of Information.****R527-5-3. Request for Release of Information.**

(1) Written requests for information governed by GRAMA may be submitted in accordance with section 63G-2-204 to:

(a) Office of Recovery Services
ATTN: ORS Records
515 East 100 South
P.O. Box 45033
Salt Lake City, UT 84145-0033.

(2) Written requests for expedited release of information in accordance with section 63G-2-204 may be submitted to:

(a) Office of Recovery Services
ATTN: ORS Records
515 East 100 South
P.O. Box 45033
Salt Lake City, UT 84145-0033.

~~[(3) Written requests for information sent by e-mail in accordance with section 63G-2-204 may be sent to:~~

~~[(a) orsrecords@utah.gov.]~~

KEY: accessing records, record requests, GRAMA compliance, records fees

Date of Enactment or Last Substantive Amendment: [~~January 21, 2009~~2013]

Notice of Continuation: January 6, 2012

Authorizing, and Implemented or Interpreted Law: 62A-11-107; 62A-11-304.4(4); 63G-2

Natural Resources, Wildlife Resources R657-44

Big Game Depredation

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37643

FILED: 05/16/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to depredation and mitigation permits.

SUMMARY OF THE RULE OR CHANGE: The proposed revision to the above listed rule: 1) authorizes the division to include buffer zones around affected properties; and 2) changes "cultivated crop" to include cleared and planted land.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 13-16-3.1 and Section 23-16-2 and Section 23-16-3 and Section 23-16-3.2 and Section 23-16-4

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This amendment allows the division to include a buffer zone around affected property and broadens the criteria for land that can qualify for depredation vouchers, as such DWR determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** Since this amendment only adds enhanced benefits to landowners' whose land is affected, this should have little to no effect on local governments. This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** This amendment increases the types of properties that may qualify for mitigation vouchers. However, since this amendment requires the same purchase of a depredation or nuisance animal permit it does not increase the cost to small businesses. Therefore, the

amendments do not have the potential to generate a cost or savings impact to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment increases the types of properties that may qualify for mitigation vouchers. However, since this amendment requires the same purchase of a depredation or nuisance animal permit it does not increase the cost to each sportsman. Therefore, the amendments do not have the potential to generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that these amendments will not create additional costs for mitigation voucher holders.

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 07/15/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2013

AUTHORIZED BY: Gregory Sheehan, Director

R657. Natural Resources, Wildlife Resources.

R657-44. Big Game Depredation.

R657-44-1. Purpose and Authority.

Under authority of Section 23-16-2, 23-16-3, 23-16-3.1, 23-16-3.2 and 23-16-4, this rule provides:

- (1) the procedures, standards, requirements, and limits for assessing big game depredation; and
- (2) mitigation procedures for big game depredation.

R657-44-3. Damage to Cultivated Crops, Fences, or Irrigation Equipment by Big Game Animals.

(1) If big game animals are damaging cultivated crops on cleared and planted land, or fences or irrigation equipment on private land, the landowner or lessee shall immediately, upon discovery of big game damage, request that the division take action by notifying a division representative in the appropriate regional office pursuant to Section 23-16-3(1).

(2) Notification may be made:

(a) orally to expedite a field investigation; or

(b) in writing to a division representative in the appropriate division regional office.

(3)(a) The regional supervisor or division representative shall contact the landowner or lessee within 72 hours after receiving notification to determine the nature of the damage and take appropriate action for the extent of the damage experienced or expected during the damage incident period.

(b) The division shall consider the big game population management objectives as established in the wildlife unit management plan approved by the Wildlife Board.

(c) Division action shall include:

(i) removing the big game animals causing depredation; or

(ii) implementing a depredation mitigation plan pursuant to Sections 23-16-3(2)(b) through 23-16-3(2)(f) and approved in writing by the landowner or lessee.

(4)(a) The division mitigation plan may incorporate any of the following measures:

(i) sending a division representative onto the premises to control or remove the big game animals, including:

(A) herding;

(B) capture and relocation;

(C) temporary or permanent fencing; or

(D) removal, as authorized by the division director or the division director's designee;

(ii) recommending to the Wildlife Board an antlerless big game hunt in the next big game season framework;

(iii) scheduling a depredation hunter pool hunt in accordance with Sections R657-44-7, R657-44-8, or R657-44-9;

(iv) issuing mitigation permits to the landowner or lessee for the harvest of big game animals causing depredation during a general or special season hunt authorized by the Wildlife Board, of which:

(A) the hunting area for big game animals may include a buffer zone established by the division that surrounds, or is adjacent to, the lands where depredation is occurring;

(B) the landowner or lessee may retain no more than five antlerless deer, five doe pronghorn, and two antlerless elk;

(C) each qualified recipient of a mitigation permit will receive from the division a Mitigation Permit Hunting License that satisfies the hunting license requirements in R657-44-11(c) to obtain the mitigation permit.

(D) the Mitigation Permit Hunting License does not authorize the holder to hunt small game; nor does it qualify the holder to apply for or obtain a cougar, bear, turkey, or other big game permit.

~~(E) the division may not issue mitigation permits for moose, bison, bighorn sheep, or mountain goat.~~

(v) issuing big game mitigation permit vouchers for use on the landowner's or lessee's private land during a general or special hunt authorized by the Wildlife Board ~~of which:~~

(A) mitigation permit vouchers for antlerless deer may authorize the take of one or two deer as determined by the division ~~;~~;

(B) the division may not issue mitigation permit vouchers for moose, bison, bighorn sheep, or mountain goat; and

(C) the hunting area for big game animals may include a buffer zone established by the division that surrounds, or is adjacent to, the landowner's or lessee's private lands where depredation is occurring.

(b) The mitigation plan may describe how the division will assess and compensate for damage pursuant to Section 23-16-4.

(c) The landowner or lessee and the division may agree upon a combination of mitigation measures to be used pursuant to Subsections (4)(a)(i) through (4)(a)(v), and a payment of damage pursuant to Section 23-16-4.

(d) The agreement pursuant to Subsection (4)(c) must be made before a claim for damage is filed and the mitigation measures are taken.

(5) Vouchers may be issued in accordance with Subsection (4)(a)(v) to:

(a) the landowner or lessee; or

(b) a landowner association that:

(i) applies in writing to the division;

(ii) provides a map of the association lands;

(iii) provides signatures of the landowners in the association; and

(iv) designates an association representative to act as liaison with the division.

(6) In determining appropriate mitigation, the division shall consider the landowner's or lessee's revenue pursuant to Subsections 23-16-3(2)(f) and 23-16-4(3)(b).

(7) Mitigation permits or vouchers may be withheld from persons who have violated this rule, any other wildlife rule, the Wildlife Resources Code, or are otherwise ineligible to receive a permit.

(8)(a) The options provided in Subsections (4)(a)(i) through (4)(a)(v) are for antlerless animals only.

(b) Deer and pronghorn hunts may be August 1 through December 31, and elk hunts may be August 1 through January 31.

(9)(a) The division director may approve mitigation permits or mitigation permit vouchers issued for antlered animals.

(b) A mitigation permit may be issued to the landowner or lessee to take big game for personal use, provided the division and the landowner or lessee desires the animals to be permanently removed.

(c) A mitigation permit voucher may be issued to the landowner or lessee, provided:

(i)(A) the division ~~[has determined]~~determines that the big game animals in the geographic area significantly contribute to the wildlife management units;

(~~ii~~)B) the landowner or lessee agrees to perpetuate the animals on their land; and

(~~iii~~)C) the damage, or expected damage, to the ~~[cultivated crop is comparable with]~~landowner's or lessee's cleared and planted land equals or exceeds the expected value of the mitigation permit voucher on that private land within the wildlife unit; or

(ii)(A) the big game damage occurs on the landowner's or lessee's cleared and planted land;

(B) the division and the affected landowner or lessee desire the animals to be permanently removed; and

(C) the damage, or expected damage, to the cleared and planted land equals or exceeds the expected value of the mitigation permit voucher on that private land within the wildlife unit.

(d) The hunting area for a mitigation permit or permit voucher issued under this subsection includes the landowner's or lessee's cleared and planted land where the depredation occurs and may include a buffer zone established by the division that surrounds, or is adjacent to, that land.

(10)(a) If the landowner or lessee and the division are unable to agree on the assessed damage, they shall designate a third party pursuant to Subsection 23-16-4(3)(d).

(b) Additional compensation ~~shall~~ may be paid above the value of any mitigation permits or vouchers granted to the landowner or lessee if the damage exceeds the value of the mitigation permits or vouchers.

(11)(a) The landowner or lessee may revoke approval of the mitigation plan agreed to pursuant to Subsection (4)(c).

(b) If the landowner or lessee revokes the mitigation plan, the landowner or lessee must request that the division take action pursuant to Section 23-16-3(1)(a).

(c) Any subsequent request for action shall start a new 72-hour time limit as specified in Section 23-16-3(2)(a).

(12) The expiration of the damage incident period does not preclude the landowner or lessee from making future claims.

(13) The division may enter into a conservation lease with the landowner or lessee of private land pursuant to Section 23-16-3(5).

R657-44-5. Compensation for Damage to Crops, Fences, or Irrigation Equipment on Private Land.

(1) The division may provide compensation to landowners or lessees for damage to cultivated crops on cleared and planted land, or fences or irrigation equipment on private land caused by big game animals pursuant to ~~[Section]~~ Sections 23-13-3 and 23-16-4.

(2) For purposes of compensation, all depredation incidents end on June 30 annually, but may be reinstated July 1.

KEY: wildlife, big game, depredation

Date of Enactment or Last Substantive Amendment: ~~[February 7, 2011]~~ 2013

Notice of Continuation: June 19, 2012

Authorizing, and Implemented or Interpreted Law: 23-16-2; 23-16-3; 23-16-3.5

**Professional Practices Advisory
Commission, Administration
R686-101
(Changed to R686-104)
Alcohol Related Offenses**

**NOTICE OF PROPOSED RULE
(Amendment)**

**DAR FILE NO.: 37674
FILED: 05/31/2013**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to change the number of the rule and to update definitions and terminology to make Professional Practices Advisory Commission rules consistent.

SUMMARY OF THE RULE OR CHANGE: The number of this rule is changed from R686-101 to R686-104, a new definition is added and existing definitions are revised, and terminology is changed throughout the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-6-306(1)(a)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. Changes to the rule relate to numbering and terminology which do not result in a cost or savings.

♦ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. Changes to the rule relate to numbering and terminology which do not result in a cost or savings.

♦ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule and the amendments apply to public education 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. Changes to the rule relate to numbering and terminology which do not result in a cost or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Changes to the rule relate to numbering and terminology which do 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:
PROFESSIONAL PRACTICES ADVISORY
COMMISSION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Lear 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 07/15/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2013

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

R686. Professional Practices Advisory Commission, Administration.

R686-10[1]4. Alcohol Related Offenses.

R686-10[1]4-1. Definitions.

[B]A. "Alcohol related offense" means:

- (1) driving while intoxicated;
- (2) alcohol-related reckless driving;
- (3) public intoxication;
- (4) driving with an open container;
- (5) unlawful sale or supply of alcohol;
- (6) unlawful purchase, possession, or consumption of alcohol;
- (7) unlawful permitting of consumption of alcohol by minors;
- (8) unlawful consumption of alcohol in public places.

B. "Applicant" means an individual seeking a clearance of a criminal background check pursuant to approval for an education license at any stage of the licensing process from the USOE.

[D]C. "Board" means the Utah State Board of Education.

[E]D. "[Certificated]Licensed educator means an individual issued a [certificate]teaching or administrative credential, including endorsements, issued by the [State] Board [of Education]to signify authorization for the person holding the [certificate]license [holder to work in the Utah]to provide professional services in the Utah's public schools[system].

[A]E. "[Commission]Utah Professional Practices Advisory Commission (UPPAC)" means [the Professional Practices Advisory Commission]an advisory commission established to assist and advise the Board in matters relating to the professional practices of educators, as established under Section 53A-6-301.

R686-10[1]4-2. Authority and Purpose.

A. This rule is authorized by Section 53A-6-306(1)(a) which directs [the Commission]UPPAC to adopt rules to carry out its responsibilities under the law.

B. The purpose of this rule is to establish procedures for disciplining educators regarding alcohol related offenses.

R686-10[1]4-3. Action by [the Commission]UPPAC if a [Certificated]Licensed Educator Has Been Convicted of an Alcohol Related Offense.

A. If as a result of a background check, it is discovered that a [certificated]licensed educator has been convicted of an alcohol related offense in the previous five years, the following minimum conditions shall apply:

(1) One conviction--a letter shall be sent to the educator informing the educator of the provisions of this rule;

(2) Two convictions--a letter shall be sent to the educator informing the educator of the provisions of this rule and requiring documentation of clinical treatment following the second conviction. If the educator is currently employed, [the Commission]UPPAC shall also send a letter of reprimand to the

educator regarding the convictions with a copy to the educator's employer.

(3) Three convictions--[the Commission]UPPAC shall recommend to the Board suspension of the educator's [certificate]license.

B. This rule does not preclude more serious or additional action by [the Commission]UPPAC against an educator for other related or unrelated offenses.

R686-10[1]4-4. [Commission]UPPAC Action Towards an Individual Who Does Not Hold [Certification]Licensing.

If as a result of a background check, it is discovered that an individual inquiring about [teacher certification]educator licensing, seeking information about [teacher certification]educator licensing, or placed in a public school for a variety of purposes has been convicted of an alcohol related offense within five years of the date of the background check, the following minimum conditions shall apply:

A. One conviction--the individual shall be denied [approval for Commission]UPPAC clearance for a period of one year from the date of the arrest;

B. Two convictions--the individual shall be denied [approval for Commission]UPPAC clearance for a period of two years from the date of the most recent arrest and the applicant shall present documentation of clinical treatment before [Commission]UPPAC clearance shall be considered; and

C. Three convictions--[the Commission]UPPAC shall recommend denial of clearance.

R686-10[1]4-5. Previous Clearance.

If the applicant or [certificated]licensed educator presents documentation to [the Commission]UPPAC that recently discovered conviction(s) have previously been addressed by the [Commission]UPPAC, [the Commission]UPPAC need not reconsider the conviction(s) absent additional convictions of the applicant or [certificated]licensed educator.

KEY: [teachers]educators, disciplinary actions

Date of Enactment or Last Substantive Amendment: [August 15, 1998]2013

Notice of Continuation: May 16, 2013

Authorizing, and Implemented or Interpreted Law: 53A-6-306(1)(a)

Professional Practices Advisory Commission, Administration

R686-102

(Changed to R686-105)

Drug Related Offenses

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37675

FILED: 05/31/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to change the number of the rule and to update definitions and terminology to make Professional Practices Advisory Commission rules consistent.

SUMMARY OF THE RULE OR CHANGE: The number of this rule is changed from R686-102 to R686-105, a new definition is added and existing definitions revised, and terminology is changed throughout the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-6-306(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. Changes to the rule relate to numbering and terminology which do not result in a cost or savings.
- ◆ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. Changes to the rule relate to numbering and terminology which do not result in a cost or savings.
- ◆ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses. This rule and the amendments apply to public education 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. Changes to the rule relate to numbering and terminology which do not result in a cost or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Changes to the rule relate to numbering and terminology which do 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:
 PROFESSIONAL PRACTICES ADVISORY COMMISSION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY, UT 84111
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Carol Lear 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 07/15/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2013

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

R686. Professional Practices Advisory Commission, Administration.

R686-10[2]5. Drug Related Offenses.

R686-10[2]5-1. Definitions.

A. "Applicant" means an individual seeking a clearance of a criminal background check pursuant to approval for an education license at any stage of the licensing process from the USOE.

B. "Board" means the Utah State Board of Education.
 [E]C. "Conviction" means the final disposition of a judicial action for a drug related offense defined under 58-37 through 37e. It includes no contest pleas, pleas in abeyance, expunged convictions and drug related offenses that are plead down to lesser convictions.

[E]D. "Drug" means any controlled substance designated as such in Section 58-37-4.

[B]E. "Drug related offense" means any offense designated in Section 58-37 through 37e.

[D]E. "[~~Certificated~~]Licensed educator" means an individual issued a [~~certificate~~]teaching or administrative credential, including endorsements, issued by the [~~State~~]Board [~~of Education~~]to signify authorization for the person holding the [~~certificate holder~~]license [to work in the Utah]to provide professional services in the Utah's public schools[~~system~~].

[A]G. "[~~Commission~~]Utah Professional Practices Advisory Commission (UPPAC)" means [~~the Professional Practices Advisory Commission~~]an advisory commission established to assist and advise the Board in matters relating to the professional practices of educators, as established under Section 53A-6-301.

R686-10[2]5-2. Authority and Purpose.

A. This rule is authorized by Section 53A-6-306(1)(a) which directs [~~the Commission~~]UPPAC to adopt rules to carry out its responsibilities under the law.

B. The purpose of this rule is to establish procedures for disciplining educators regarding drug related offenses.

R686-10[2]5-3. Action by [~~the Commission~~]UPPAC if a [~~Certificated~~]Licensed Educator Has Been Convicted of an Drug Related Offense.

A. If as a result of a background check, it is discovered that a [~~certificated~~]licensed educator has been convicted of a drug related offense in the previous ten years, the following minimum conditions shall apply:

- (1) One conviction--a letter shall be sent to the educator informing the educator of the provisions of this rule;
- (2) Two convictions--a letter shall be sent to the educator informing the educator of the provisions of this rule and requiring documentation of clinical treatment following the second conviction.
 - (a) If the most recent conviction was more than three years prior to the discovery of the conviction(s) and the educator

provides documentation of clinical treatment, ~~[the Commission]~~ UPPAC shall send a letter of warning to the educator.

(b) If the most recent conviction was less than three years prior to the discovery of the conviction(s) and the educator provides documentation of clinical treatment, ~~[the Commission]~~ UPPAC shall send a letter of reprimand to the educator and a letter to the district with notice of treatment.

(c) If the most recent conviction was less than three years prior to the discovery of the conviction(s) and the educator provides no documentation of clinical treatment, ~~[the Commission]~~ UPPAC shall send a letter of reprimand to the educator and a copy of the letter of reprimand to the educator's employer and ~~[the Commission]~~ UPPAC may initiate an investigation of the educator based upon the drug offenses.

(3) Three convictions--a letter shall be sent to the educator informing the educator of the provisions of this rule and requiring documentation of clinical treatment following the third conviction.

(a) If the most recent conviction was more than five years prior to the discovery of the conviction(s) and the educator provides documentation of clinical treatment, ~~[the Commission]~~ UPPAC shall send a letter of warning to the educator.

(b) If the most recent conviction was less than three years prior to the discovery of the conviction(s) and the educator provides documentation of clinical treatment, ~~[the Commission]~~ UPPAC shall send a letter of reprimand to the educator and send a copy of the letter of reprimand to the educator's employer.

(c) If the most recent conviction was less than three years prior to the discovery of the conviction(s) and the educator provides no documentation of clinical treatment, ~~[the Commission]~~ UPPAC shall recommend suspension of the educator's ~~[certificate]~~ license to the Board.

B. This rule does not preclude more serious or additional action by ~~[the Commission]~~ UPPAC against an educator for other related or unrelated offenses.

R686-10[2]5-4. ~~[Commission]~~ UPPAC Action Towards an Individual Who Does Not Hold ~~[Certification]~~ Licensing.

If as a result of a background check, it is discovered that an individual inquiring about ~~[teacher certification]~~ educator licensing, seeking information about ~~[teacher certification]~~ educator licensing, or placed in a public school for a variety of purposes has been convicted of a drug related offense within ten years of the date of the background check, the following minimum conditions shall apply:

A. One conviction--the individual shall be denied ~~[approval of Commission]~~ UPPAC clearance for a period of one year from the date of the arrest.

B. Two convictions--the individual shall be denied ~~[approval of Commission]~~ UPPAC clearance for a period of three years from the date of the most recent arrest and the applicant shall present documentation of clinical treatment before ~~[Commission]~~ UPPAC clearance shall be considered.

C. Three convictions--the individual shall be denied ~~[approval of Commission]~~ UPPAC clearance for a period of five years from the date of the most recent arrest. ~~[The Commission]~~ UPPAC shall require the applicant to present documentation of clinical treatment and may recommend denial of clearance.

R686-10[2]5-5. Previous Clearance.

If the applicant or ~~[certificated]~~ licensed educator presents documentation to ~~[the Commission]~~ UPPAC that recently discovered conviction(s) have previously been addressed by ~~[the Commission]~~ UPPAC, ~~[the Commission]~~ UPPAC need not reconsider the conviction(s) absent additional convictions of the applicant or ~~[certificated]~~ licensed educator.

KEY: ~~[teachers]~~educators, disciplinary actions

Date of Enactment or Last Substantive Amendment: ~~[August 15, 1998]~~2013

Notice of Continuation: May 16, 2013

Authorizing, and Implemented or Interpreted Law: 53A-6-306(1)(a)

**Workforce Services, Employment
Development
R986-100-117
Disqualification For Fraud (Intentional
Program Violations or IPVs)**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37644

FILED: 05/16/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to comply with statutory changes in H.B. 209 from the 2013 General Session. The Department filed a proposed amendment to comply with H.B. 209 in April 2013, Division of Administrative Rules (DAR) filing No. 37541, but inadvertently attached the wrong rule text. It is the Department's intention to let the filing under DAR No. 37541 lapse. (DAR Note: Filing No. 37541 was published in the May 15, 2013, issue of the Utah State Bulletin.)

SUMMARY OF THE RULE OR CHANGE: Prohibits recipients of assistance under the Family Employment Plan from accessing funds through an electronic benefit transfer in a place that exclusively or primarily sells intoxicating liquor, allows gambling, or provides adult entertainment where performers disrobe or perform unclothed.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Section 35A-3-101 et seq. and Section 35A-3-301 et seq. and Section 35A-3-401 et seq. and Subsection 35A-1-104(4)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This applies to federally-funded programs so there are no costs or savings to the state budget.

- ◆ LOCAL GOVERNMENTS: This is a federally-funded program so there are no costs or savings to the local government.
- ◆ SMALL BUSINESSES: There will be no costs to small businesses to comply with these changes because this is a federally-funded program.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There will be no costs to persons other than small businesses, businesses or local government entities to comply with these changes because there are no costs or fees associated with these proposed changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with these changes for any affected persons because this is a federally-funded program and there are no fees or costs associated with these proposed changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S
SALT LAKE CITY, UT 84111-2333
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
◆ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2013

AUTHORIZED BY: Jon Pierpont, Executive Director

**R986. Workforce Services, Employment Development.
R986-100. Employment Support Programs.
R986-100-117. Disqualification For Fraud (Intentional Program Violations or IPV's).**

(1) Any person who is at fault in obtaining or attempting to obtain, an overpayment of assistance, as defined in Section 35A-3-602 from any of the programs listed in R986-100-102 or otherwise intentionally breaches any program rule either personally or through a representative is guilty of an intentional program violation (IPV). Acts which constitute an IPV include but are not limited to:

- (a) knowingly making false or misleading statements;
- (b) misrepresenting, concealing, or withholding facts or information;
- (c) posing as someone else;
- (d) not reporting the receipt of a public assistance payment the individual knew or should have known they were not eligible to receive;
- (e) not reporting a material change as required by and in accordance with these rules;~~and~~
- (f) committing an act intended to mislead, misrepresent, conceal or withhold facts or propound a falsity~~[-]; or~~
- (g) accessing TANF public assistance funds through an electronic benefit transfer, including through an automated teller machine or point-of-sale device, in an establishment in the state that:
 - (i) exclusively or primarily sells intoxicating liquor,
 - (ii) allows gambling or gaming, or
 - (iii) provides adult-oriented entertainment where performers disrobe or perform unclothed.

(2) An IPV occurs when a person commits any of the above acts in an attempt to obtain, maintain, increase or prevent the decrease or termination of any public assistance payment(s).

(3) When the Department determines or receives notice from a court that fraud or an IPV has occurred, the client is disqualified from receiving assistance of the same type for the time period as set forth in rule, statute or federal regulation.

(4) Disqualifications run concurrently.

(5) All income and assets of a person who has been disqualified from assistance for an IPV continue to be counted and affect the eligibility and assistance amount of the household assistance unit in which the person resides.

(6) If an individual has been disqualified in another state, the disqualification period for the IPV in that state will apply in Utah provided the act which resulted in the disqualification would have resulted in a disqualification had it occurred in Utah. If the individual has been disqualified in another state for an act which would have led to disqualification had it occurred in Utah and is found to have committed an IPV in Utah, the prior periods of disqualification in any other state count toward determining the length of disqualification in Utah.

(7) The client will be notified that a disqualification period has been determined. The disqualification period shall begin no later than the second month which follows the date the client receives written notice of the disqualification and continues in consecutive months until the disqualification period has expired.

(8) Nothing in these rules is intended to limit or prevent a criminal prosecution for fraud based on the same facts used to determine the IPV.

KEY: employment support procedures
Date of Enactment or Last Substantive Amendment: ~~July 25, 2012~~2013
Notice of Continuation: September 8, 2010
Authorizing, and Implemented or Interpreted Law: 35A-3-101 et seq.; 35A-3-301 et seq.; 35A-3-401 et seq.

**Workforce Services, Unemployment
Insurance
R994-403-115c
Period of Ineligibility**

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 37671
FILED: 05/30/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to provide for fairness in auditing claims.

SUMMARY OF THE RULE OR CHANGE: If a claimant applies for a job as required, this rule requires the Department to use caution in attempting to verify the job contact given that many individuals apply online and employers usually do not keep a record of those applications.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Subsection 35A-1-104(4) and Subsection 35A-4-403(1) and Subsection 35A-4-502(1)(b)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This is a federally-funded program so there are no costs or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** This is a federally funded program so there are no costs or savings to local government.
- ◆ **SMALL BUSINESSES:** There are no costs or savings to any small businesses as there are no fees associated with this program and it is federally funded.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no costs or savings to any persons other than small businesses, businesses, or local government entities as there are no fees associated with this program and it is federally funded.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to any affected persons as there are no fees associated with this program and it is federally funded. These changes will not impact any employers contribution rate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. These changes will have no impact on any employer's contribution tax rate.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
WORKFORCE SERVICES
UNEMPLOYMENT INSURANCE
140 E 300 S
SALT LAKE CITY, UT 84111-2333
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2013

AUTHORIZED BY: Jon Pierpont, Executive Director

**R994. Workforce Services, Unemployment Insurance.
R994-403. Claim for Benefits.
R994-403-115c. Period of Ineligibility.**

(1) Eligibility for benefits is established on a weekly basis. If the Department has determined that the claimant is not able or available for work, and it appears the circumstances will likely continue, an indefinite disqualification will be assessed, and the claimant must requalify by showing that he or she is able and available for work.

(2) If the Department has reason to believe a claimant has not made a good faith effort to seek work, or the Department is performing a routine audit of a claim, the Department can only require that the claimant provide proof of work search activities for the four weeks immediately preceding the Department's request. However, if the claimant admits he or she did not complete the work search activities required under this rule, the Department can disqualify a claimant for more than four weeks. The claimant will be disqualified for any week during which he or she fails to provide the information required under R994-403-114c(5).

(3) If the Department seeks verification of a job contact from an employer, the claimant will only be disqualified if the employer provides clear and convincing evidence that there was no contact.

([3]4) The claimant will be disqualified for all weeks in which it is discovered that the claimant was not able or available to accept work without regard to the four-week limitation.

KEY: filing deadlines, registration, student eligibility, unemployment compensation

Date of Enactment or Last Substantive Amendment: [~~October 1, 2012~~]2013

Notice of Continuation: June 26, 2007

Authorizing, and Implemented or Interpreted Law: 35A-4-403(1)

**Workforce Services, Unemployment
Insurance
R994-508-102
Time Limits for Filing an Appeal from an
Initial Department Determination**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37670

FILED: 05/30/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to streamline and clarify procedure currently followed in the Department.

SUMMARY OF THE RULE OR CHANGE: The current rule provides that a party only has 10 days to appeal a Department decision if that decision was hand or electronically delivered to a party. The Department has found that it is most helpful to the parties if the Department can provide the actual date when the appeal is due but it would be extremely difficult and would lead to errors if the Department printed decisions with different due dates depending on whether the decision will be delivered electronically or by the post office. This procedure is complicated by the fact that parties often change from electronic to postal mail. Keeping the date the same, which is what the Department is currently doing, will keep the process easy to navigate for employers and claimants and avoid errors.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Section 35A-1-303 and Section 35A-4-406 and Section 35A-4-508 and Subsection 35A-1-104(4) and Subsection 35A-4-502(1)(b)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This is a federally-funded program so there are no costs or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** This is a federally funded program so there are no costs or savings to local government.
- ◆ **SMALL BUSINESSES:** There are no costs or savings to any small businesses as there are no fees associated with this program and it is federally funded.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no costs or savings to any persons other than small businesses, businesses, or local government entities as there are no fees associated with this program and it is federally funded.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to any affected persons as there are no fees associated with this program and it is federally

funded. These changes will not impact the contribution rate of any employers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. These changes will have no impact on any employers contribution tax rate.

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

WORKFORCE SERVICES

UNEMPLOYMENT INSURANCE

140 E 300 S

SALT LAKE CITY, UT 84111-2333

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2013

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2013

AUTHORIZED BY: Jon Pierpont, Executive Director

R994. Workforce Services, Unemployment Insurance.

R994-508. Appeal Procedures.

R994-508-102. Time Limits for Filing an Appeal from an Initial Department Determination.

(1) [~~If the initial Department determination was delivered to the party, t]The time permitted for an appeal[is ten calendar days. "Delivered to the party" means personally handed, faxed, or sent electronically to the party. If the determination was sent through the U.S. Mail, an additional five calendar days will be added to the time allowed for an appeal from the initial Department determination. Therefore, the amount of time permitted for filing an appeal from any initial Department determination sent through the U.S. Mail] is fifteen calendar days from the date on the Department decision unless otherwise specified on the decision.~~

(2) In computing the period of time allowed for filing an appeal, the date as it appears in the determination is not included. The last day of the appeal period is included in the computation unless it is a Saturday, Sunday, or legal holiday when Department offices are closed. If the last day permitted for filing an appeal falls on a Saturday, Sunday, or legal holiday, the time permitted for filing a timely appeal will be extended to the next day when Department offices are open.

(3) An appeal sent through the U.S. Mail is considered filed on the date shown by the postmark. If the postmark date cannot be established because it is illegible, erroneous, or omitted, the appeal will be considered filed on the date it was mailed if the sender can establish that date by competent evidence and can show

that it was mailed prior to the date of actual receipt. If the date of mailing cannot be established by competent evidence, the appeal will be considered filed on the date it is actually received by the Appeals Unit as shown by the Appeals Unit's date stamp on the document or other credible evidence such as a written notation of the date of receipt. "Mailed" in this subsection means taken to the post office or placed in a receptacle which is designated for pick up by an employee who has the responsibility of delivering it to the post office.

KEY: unemployment compensation, appellate procedures
Date of Enactment or Last Substantive Amendment: [~~February 1, 2012~~2013]

Notice of Continuation: June 10, 2008

Authorizing, and Implemented or Interpreted Law: 35A-4-508(2); 35A-4-508(5); 35A-4-508(6); 35A-4-406; 35A-4-103

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 15, 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 October 13, 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

Public Service Commission,
Administration
R746-405
Filing of Tariffs for Gas, Electric,
Telephone, and Water Utilities

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 37447

FILED: 05/29/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule changes are intended to update the format of rule filings to be consistent with current technologies.

SUMMARY OF THE RULE OR CHANGE: The requirement for utilities to use symbols to identify tariff changes is replaced with the requirement to provide marked-up versions of the tariff indicating changes as part of an advice letter filing. The marked-up version of the proposed revised tariff sheet shall indicate deleted text by strike-through and additional text by underline. Utilities with public websites shall provide access to a searchable copy of the utility's presently effective tariff. There will be no formal comment period for this change of the rule. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the April 15, 2013, issue of the *Utah State Bulletin*, on page 38. 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 54-3-2 and Section 54-3-3 and Section 54-3-4 and Section 54-4-4 and Section 54-7-12.8

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This filing codifies practices that exist for tariff filings, and should not impact the operations of any state agencies.
- ◆ **LOCAL GOVERNMENTS:** This filing codifies practices that exist for tariff filings, and should not impact the operations of local government.
- ◆ **SMALL BUSINESSES:** This filing codifies practices that exist for tariff filings, and should not impact the operations of any small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This filing codifies practices that exist for tariff filings, and should not impact the operations of persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This filing codifies practices that exist for tariff filings, and should not impact the operations of any affected person.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule changes were intended to update the format of tariff filings to be consistent with current technologies. No fiscal impact should result other than a potential unquantifiable cost savings as a result of the additional clarity this rule change provides.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Jordan White by phone at 801-530-6712, or by Internet E-mail at jordanwhite@utah.gov
- ◆ Sheri Bintz by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 07/15/2013

AUTHORIZED BY: Jordan White, Legal Counsel

**R746. Public Service Commission, Administration.
R746-405. Filing of Tariffs for Gas, Electric, Telephone, and Water Utilities.**

R746-405-2. Format and Construction of Tariffs.

A. Format--Tariffs shall be in loose-leaf form for binding in a stiff-backed book or books as required and consist of parts or subdivisions arranged in order set forth as follows:

1. Title:
"TARIFF"
Applicable to
Kind of
SERVICE
NAME OF UTILITY

2. Table of Contents: a complete index of numbers and titles of effective sheets listed in the order in which the tariff sheets are arranged in the tariff book. Table of contents sheets shall bear sheet numbers and be in the form set forth in Subsection R746-405-2(C).

3. Preliminary statement: a brief description of the territory served, types and classes or service rendered and general conditions under which the service is rendered. Preliminary sheets shall bear sheet numbers and be in the form set forth in Subsection R746-405-2(C).~~The preliminary statement shall clearly define the symbols used in the tariffs. For example:~~

- a. "C" to signify ~~changed listing, rule or condition which may affect rates or charges;~~

~~b. "D" to signify discontinued material, including listing, rate, rule or condition;~~

~~c. "I" to signify increase;~~

~~d. "L" to signify material relocated from or to another part of the tariff schedules with no change in text, rate, rule or condition;~~

~~e. "N" to signify new material including listing, rate, rule or condition;~~

~~f. "R" to signify reduction;~~

~~g. "T" to signify change in wording of text but no change in rate, rule or condition.]~~

4. Service area maps: maps for telecommunication utilities shall clearly indicate the boundaries of the service area, the principal streets, other main identifying features therein, the general location of the service area in relation to nearby cities, major highways or other well-known reference points and the relation between service area boundaries and map references. Service area maps shall be approximately 8-1/2 x 11 inches in size, or folded to that size in order to fit within the borders of the space provided on tariff sheets. Maps for gas, water and electric utilities shall clearly indicate the boundaries of the service area.

B. Tariff Books--

1. Utilities shall ~~constantly~~ maintain their presently effective tariff at each business office open to the public. Utilities with public websites shall provide access to a searchable copy of the utility's presently effective tariff.

2. Utilities shall remove canceled tariff sheets from their currently effective tariffs. Utilities shall permanently retain a file of canceled tariff sheets.

C. Construction of Tariffs for Filing--

1. The loose-leaf sheets used in tariffs shall be of paper stock not less than 16 lb. bond or of equal durability and 8-1/2 x 11 inches in size and electronically~~[-Tariffs may be] printed or copied~~~~[-typewritten or mimeographed or other similar process]~~. Tariffs may not be hand-written. One side of a sheet only may be used and a binding margin of at least 1-1/8 inches at the left of the sheet.

a. The tariff sheets of each utility shall provide the following information:

i. the name of the utility;

ii. the sheet, or page number, along with information to designate whether it is the first version of the sheet or whether the sheet has been revised since it was originally issued. Sheets shall be numbered consecutively;

iii. the number of the advice letter with which the sheet is submitted to the Commission or the docket number if the sheet is filed in accordance with a report and order of the Commission;

iv. information to indicate the date the sheet was filed with the Commission and the date the sheet became effective.

2. Tariffs shall include the following information and as nearly as possible in the following order:

a. schedule number or other designation;

b. class of service, such as business or residential;

c. character of applicability, such as heating, lighting or power, or individual and party-line service;

d. territory to which the tariff applies;

e. rates, in tabular form if practicable;

f. special conditions, limitations, qualifications and restrictions. The conditions shall be brief and clearly worded to cover all special conditions of the rate. Amounts subject to refund shall be specified.

3. If a rate schedule or a rule is carried forward from one sheet to another, the word "Continued" shall be shown.

D. Submission of Tariff Sheets and Advice Letters--

1. Tariff sheets shall be transmitted by an advice letter or in response to a Commission order. A revised table of contents sheet shall be transmitted with each proposed tariff change, if the change requires alteration of the table of contents.

2. An original of each advice letter and tariff sheet shall be filed with the commission, along with the number of paper copies specified at <http://www.psc.utah.gov/filingrequirements.html>. In addition, each advice letter and tariff filing shall be presented as an electronic word processing or spreadsheet document that is substantially the same as the filed paper copy.

3. Advice letters shall include the following:

a. sheet numbers and titles of the tariff sheets being filed, together with the sheet numbers of the sheets being canceled;

b. essential information as to the reasons for the filing;

c. dates on which the tariff sheets are proposed to become effective;

d. increases or decreases, more or less restrictive conditions, or withdrawals;

e. in the case of an increase authorized by the Commission, reference to the report and order authorizing the increase and docket number;

f. if the filing covers a new service not previously offered or rendered, an explanation of the general effect of the filing, including a statement as to whether present rates or charges will be affected, or service withdrawn from a previous user and advice whether the proposed rates are cost-based;

g. a statement that the tariff sheets proposed do not constitute a violation of state law or Commission rule. The filing of proposed tariff sheets shall of itself constitute the representation of the filing utility that it, in good faith, believes the proposed sheets or revised sheets to be consistent with applicable statutes, rules and orders. The Commission may, after hearing, impose sanctions for a violation hereof.

4. If authorized to file a notice that the effective tariff of a previous owner for the same service area is being adopted, the notice of adoption shall be submitted in the form of an advice letter.

5. Advice letters shall be numbered annually and chronologically. The first two digits represent the year followed by a hyphen and two or more digits, beginning with 01, as submitted by a utility for class of utility service rendered.

6. If a change is proposed on a tariff sheet, both clean and marked-up versions of the tariff sheet shall be included as part of the advice letter filing. The marked-up version of the proposed revised tariff sheet shall indicate deleted text by strike-through and additional text by underline.~~[attention shall be directed to the change by an appropriate character along the right hand margin of the tariff sheet using the symbols set forth in the preliminary statement.]~~

7. At the time of making a tariff filing with the Commission, the utility shall furnish a copy of the advice letter and a copy of each related tariff sheet to:

a. the Division;

b. the Office; and

c. interested parties having requested notification.

8. If the suspension is lifted by order of the Commission, the filing shall be resubmitted under a new advice letter number. If the

suspension is made permanent by the Commission, the advice letter number shall not be used again.

E. Approval of Filed Tariff Sheets--

1. Utility tariffs may not increase rates, charges or conditions, change classifications which result in increases in rates and charges or make changes which result in lesser service or more restrictive conditions at the same rate or charge, unless a showing has been made before and a finding has been made by the Commission that the increases or changes are justified. This requirement does not apply to electrical or telephone cooperatives in compliance with Section 54-7-12(6), or by telecommunications utilities with less than 5,000 subscribers access lines in compliance with Section 54-7-12(7).

2. New tariff sheets covering a service or commodity not previously furnished or supplied, or revised tariff sheets, not increasing, or increasing pursuant to Commission order, a rate, toll, rental or charge, may be filed by the advice letter. Tariff sheets, unless otherwise authorized by the Commission either on complaint or on its own motion, shall become effective after not less than 30 calendar days after the filed date.

3. Upon application in the advice letter and for good cause shown, the Commission may authorize tariff sheets to become effective on a day before the end of the 30 day notice period.

4.a. The Commission may reject, suspend, alter, or modify the effectiveness of tariff sheets that do not conform to these rules, which have alterations on the face thereof or contain errors, or for other reasons as the Commission determines.

b. Any party recommending that the Commission reject, suspend, alter, or modify the effectiveness of tariff sheets shall file its request no later than 15 calendar days after the date the tariff sheets were filed with the Commission.

c. The Commission shall notify the utility of its action by a letter stating the reasons for the action.

d. Rejected tariff sheets shall be retained in the utility's file of canceled and superseded sheets.

e. Advice letter numbers of rejected filings shall not be reused.

F. Public Inspection of Tariffs--

1. Utilities shall maintain, open for public inspection at their main office, a copy of the complete tariff and advice letters filed with the Commission. Utilities shall maintain, open for public inspection, copies of their effective tariffs applicable within the territories served by the offices.

2. Utilities shall post in a conspicuous place in their major manned business office, a notice to the effect that copies of the schedule of applicable rates in the territory are on file and may be inspected by anyone desiring to do so.

G. Contracts Authorized by Tariff--Tariff sheets expressly providing that a written contract shall be executed by a customer as a condition to the receipt of service, relating either to the quantity or duration of service or the installation of equipment, the contract need not be filed with the Commission. A copy of the general form of contract to be used in each case shall be filed with the tariff as provided in these rules.

This contract shall be subject to changes or modifications by the Commission.

KEY: rules and procedures, public utilities, tariffs, utility regulations

Date of Enactment or Last Substantive Amendment: 2013

Notice of Continuation: March 28, 2013

Authorizing, and Implemented or Interpreted Law: 54-3-2; 54-3-3; 54-3-4; 54-4-1; 54-4-4; 54-7-12

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.

**Public Safety, Driver License
R708-45
Renewal or Duplicate License for a
Utah Resident Temporarily Residing
Out of State**

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 37657
FILED: 05/23/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to outline provisions to add a motorcycle endorsement to a Utah driver license for military personnel and their dependents stationed outside of Utah (H.B. 32, 2013 General Legislative Session); clarify the provisions for the issuance of a license to military personnel and their dependents stationed outside of Utah; and to add provisions for the issuance of a Utah driver license to civilian employees of the U.S. State Department or the U.S. Department of Defense and their dependents stationed outside the United States (H.B. 268, 2012 General Legislative Session).

SUMMARY OF THE RULE OR CHANGE: This rule outlines provisions to add a motorcycle endorsement to a Utah driver license for military personnel and their dependents stationed outside of Utah (H.B. 32, 2013 General Legislative Session); clarifies the provisions for the issuance of a license to military personnel and their dependents stationed outside of Utah;

and adds provisions for the issuance of a Utah driver license to civilian employees of the U.S. State Department or the U.S. Department of Defense and their dependents stationed outside the United States (H.B. 268, 2012 General Legislative Session).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53-3-205(21)

EMERGENCY RULE REASON AND JUSTIFICATION:
REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.
JUSTIFICATION: H.B. 32 (2013), Driver License Motorcycle Endorsement Amendments, Subsection 53-3-205(21) was effective as of 05/14/2013.

- ANTICIPATED COST OR SAVINGS TO:**
- ◆ **THE STATE BUDGET:** The Utah Legislature appropriated \$7,000 from the Public Safety Transportation Restricted Account to implement the provisions of H.B. 32 (2013). This cost is associated with statute not this rule.
 - ◆ **LOCAL GOVERNMENTS:** There is no fiscal impact to local government because local government does not issue Utah driver licenses.
 - ◆ **SMALL BUSINESSES:** There is no fiscal impact to small businesses because small businesses do not issue Utah driver licenses.
 - ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no fiscal impact to persons other than small businesses, businesses or local government entities because these groups do not issue Utah driver licenses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons other than the statutorily required license and endorsement application fees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and agree 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: 05/23/2013

AUTHORIZED BY: Nannette Rolfe, Director

R708. Public Safety, Driver License.

[R708-45. ~~Renewal or Duplicate License for a Utah Resident Temporarily Residing Out of State.~~

R708-45-1. Purpose.

Effective January 1, 2010, the Utah Driver License Division will issue a renewal or a duplicate regular license certificate through the mail under the provisions of this rule to an individual who is a Utah resident that is temporarily residing outside of the state.

R708-45-2. Authority.

This rule is authorized by Section 53-3-104 and 53-3-205.

R708-45-3. Definitions.

(1) "Driving Privilege Card" means the evidence of the privilege granted and issued under Chapter 53-3 to drive a motor vehicle to a person whose privilege was obtained without providing evidence of lawful presence in the United States.

(2) "Limited-Term License Certificate" means the evidence of the privilege granted and issued under Chapter 53-3 to drive a motor vehicle to a person whose privilege was obtained providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(B).

(3) "Regular Driver License Certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle whose privilege was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(A).

R708-45-4. Provisions.

(1) A valid Regular License Certificate holder with a digitized driver license photo on file with the division who is a resident of the state of Utah and is temporarily residing outside the state of

Utah may apply for a renewal or a duplicate of their driver license under the provisions of this rule.

(a) Upon request and verification of eligibility, a driver will be mailed an application form, a Certificate of Visual Examination, a medical questionnaire, and general instructions for completion of the renewal or duplicate license process.

(b) During the five year period prior to the application request date, the driver's record may not contain evidence which may represent a hazard to public safety.

(c) Drivers will be required to comply with verification of identity, verification of legal presence, social security number verification, and Utah residency verification requirements pursuant to Section 53-3-205 in order to complete the license application process.

(d) Drivers who are 64 years and 6 months old or older, or who have answered "yes" to the vision question under category "I" on the medical questionnaire, must furnish a current Certificate of Visual Examination form before renewing under the provisions of this rule.

(e) Drivers will mail in the completed application; required identity, legal presence, social security number and Utah residence address documents; and appropriate fees to the Driver License Division, after which the division will mail out a renewal or duplicate license certificate.

(2) Drivers that have changed their name or do not have the appropriate restrictions under Section 53-3-208 on their present driver's license are not eligible to obtain a renewal or a duplicate of their driver license under the provisions of this rule.

(3) A driver whose current license has been issued under the provisions of this rule may only renew by mail or receive another duplicate through the mail in the following renewal cycle if approved by the division director or designee. Drivers may renew under the provisions of this rule only once in a ten year period unless approved by the division director or designee.

(4) In the event that the driver license has already expired at the time the driver license application is submitted through the mail, the application for renewal will not be processed unless it is received within six months from the current expiration date.

(5) If the applicant is ordered to active duty and stationed outside Utah in any of the armed forces of the United States, and the driver license is valid until 90 days after the person has been discharged or has left the service, the division may issue a renewal or duplicate license under the provisions of this rule;

(a) unless the license has been suspended, disqualified, denied, revoked or cancelled by the division;

(b) upon receipt of supporting documentation or verification that establishes that the individual is ordered to active duty in addition to the requirements as outlined in subsection (1);

(c) the renewal license certificate will reflect an updated expiration date, however, the license will remain in effect until 90 days after the person has been discharged or has left the service.

(7) Commercial drivers under the "Commercial Driver License Act", Limited-Term License holders and Driving Privilege Card holders do not qualify to obtain a duplicate or renew under the provisions of this rule.

KEY: driver license

Date of Enactment or Last Substantive Amendment: December 31, 2009

Authorizing, and Implemented or Interpreted Law: 53-3-104; 53-3-205]

R708-45. Renewal or Duplicate License for Utah Residents Temporarily Residing Out of State.**R708-45-1. Purpose.**

The purpose of this rule is to establish procedures whereby the division may renew or issue a duplicate regular license certificate to a Utah resident who is temporarily residing outside of the state.

R708-45-2. Authority.

This rule is authorized by Sections 53-3-104 and 53-3-205.

R708-45-3. Definitions.

Definitions in this rule are found in Section 53-3-102.

In addition:

(a) "DOD applicant" means a person who is a civilian employee of the United States Department of Defense that is stationed outside of the United States, or an immediate family member or dependent residing outside of the United States with such person who has applied for a renewal or duplicate Utah driver license;

(b) "DOS applicant" means a person who is a civilian employee of the United States State Department that is stationed outside of the United States, or an immediate family member or dependent residing outside of the United States with such person who has applied for a renewal or duplicate Utah driver license; and

(c) "military applicant" means a person who is ordered to active duty and stationed outside Utah in any of the armed forces of the United States, or an immediate family member or dependent residing outside of Utah with such person who has applied for a renewal or duplicate Utah driver license.

R708-45-4. Requirements to Renew or Obtain a Duplicate License.

(1) To be eligible to obtain a renewal or duplicate driver license under the provisions of this rule, an applicant shall:

(a) be a resident of the state of Utah;

(b) be temporarily residing outside the state of Utah; and

(c) have a valid regular license certificate with a digitized driver license photo on file with the division.

(2) The driver record of the applicant shall not:

(a) contain evidence that demonstrates the applicant is a hazard to public safety within the five-year period preceding the application; or

(b) reflect expiration of more than a six-month period at the time the application is submitted to the division unless:

(i) the applicant is a DOD applicant, DOS applicant or military applicant; and

(ii) the license has not been suspended, disqualified, denied, revoked or cancelled by the division.

(3) An applicant is not eligible to renew or obtain a duplicate license under the provisions of this rule if:

(a) the applicant holds a:

(i) commercial driver license;

(ii) limited term driver license; or

(iii) driving privilege card;

(b) the applicant has previously renewed or obtained a duplicate license under the provisions of this rule, unless approved by the division director or designee;

(c) the applicant has changed their name since the last Utah license was issued; or

(d) the required license restrictions have changed since the last Utah license was issued.

R708-45-5. Renewal or Duplicate License Application.

(1) To apply for a renewal or duplicate license under the provisions of this rule, an applicant shall submit to the division:

(a) a license application form, which can be obtained from the division either online or through the mail;

(b) verification pursuant to Section 53-3-205 of:

(i) identity;

(ii) legal presence;

(iii) social security number; and

(iv) Utah residency;

(c) a completed certificate of visual examination form which can be obtained from the division either online or through the mail, if the applicant is age 64 years and 6 months or older at the time of application;

(d) supporting documentation that establishes an applicant is a DOD applicant, DOS applicant or military applicant, if applicable;

(e) proof of successful completion of a certified Motorcycle Safety Foundation rider training course, if the applicant is a military applicant and is applying for an original motorcycle endorsement;

(f) written notice of the applicant's intent to apply for a renewal or duplicate license under the provisions of this rule; and

(g) applicable fees.

(2) Upon receipt of a completed application packet, the division:

(a) shall review the materials to determine if the applicant is eligible for a renewal or duplicate license; and

(b) may request additional information to determine if the applicant is eligible for a renewal or duplicate license.

(3)(a) If the division determines that the applicant has met all of the requirements for a renewal or duplicate license, the division shall issue the license certificate to the applicant.

(b) The license certificate shall expire as provided in Section 53-3-205.

(4) If the division determines that the applicant does not meet the requirements for a renewal or duplicate license:

(a) the division shall issue a denial letter to the applicant that states the reasons for the denial; and

(b) the applicant may seek agency review as provided by Section 63G-4-301 by filing a written request for review within 30 calendar days after the issuance of the letter.

KEY: renewal licenses, duplicate licenses, Utah resident temporarily out-of-state

Date of Enactment or Last Substantive Amendment: May 23, 2013

Authorizing, and Implemented or Interpreted Law: 53-3-104 and 53-3-205

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.

Administrative Services, Archives

R17-5

Definitions for Rules in Title R17

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37653
FILED: 05/17/2013

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: This rule contains definitions of terms used in Title R17. The rule is issued by the Department of Administrative Services as provided by Section 63A-12-104.

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 on 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 rule should continue as it provides definitions of the acronyms and the terms used in the subsequent sections of the title.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ADMINISTRATIVE SERVICES
ARCHIVES
346 S RIO GRANDE
SALT LAKE CITY, UT 84101-1106

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Susan Mumford by phone at 801-531-3861, by FAX at 801-531-3867, or by Internet E-mail at smumford@utah.gov

AUTHORIZED BY: Kimberly Hood, Executive Director

EFFECTIVE: 05/17/2013

Administrative Services, Archives

R17-6

Records Storage and Disposal at the
State Records Center

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37654
FILED: 05/17/2013

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 Title 63G, Chapters 2 and 3, the Executive Director of the Department of Administrative Services establishes procedures for the collection, storage, designation, classification, access, and management of records under Section 63A-12-104.

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: The rule establishes procedures for the management and storage of records pursuant to Section 63A-12-101. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Susan Mumford by phone at 801-531-3861, by FAX at 801-531-3867, or by Internet E-mail at smumford@utah.gov

AUTHORIZED BY: Kimberly Hood, Executive Director

EFFECTIVE: 05/17/2013

Administrative Services, Archives **R17-7**

Archival Records Care and Access at the State Archives

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37659
FILED: 05/28/2013

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: This rule is enacted under the Department of Administrative Services as provided by Section 63A-12-104. It authorizes the Archives to make rules governing the collection, storage, classification, management, and access to records in the custody of the Archives.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule provides procedures for the care of and access to archival records under Section 63A-12-101.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Susan Mumford by phone at 801-531-3861, by FAX at 801-531-3867, or by Internet E-mail at smumford@utah.gov

AUTHORIZED BY: Kimberly Hood, Executive Director

EFFECTIVE: 05/28/2013

Administrative Services, Archives **R17-8** Application of Microfilm Standards

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37655
FILED: 05/17/2013

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: This rule is enacted under the Department of Administrative Services as provided by Subsection 63A-12-104(1) to establish a procedure for the microfilming standards of permanent and long-term records.

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 establishes procedures for the microfilming of long term and permanent records as authorized by Section 63A-12-104. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Susan Mumford by phone at 801-531-3861, by FAX at 801-531-3867, or by Internet E-mail at smumford@utah.gov

AUTHORIZED BY: Kimberly Hood, Executive Director

EFFECTIVE: 05/17/2013

Agriculture and Food, Plant Industry R68-16

Quarantine Pertaining to Pine Shoot Beetle, Tomicus piniperda

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37669
FILED: 05/30/2013

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: Promulgated under authority of Sections 4-2-2 and 4-35-9 that require the Department of Agriculture to adopt rules according to Utah Rulemaking Act (Title 63G, Chapter 3) to administer agricultural laws. Provides authority to the Department to establish and enforce quarantines to protect against destructive pests.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were submitted opposing or supporting 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: Pine Shoot Beetle has a high probability to be artificially transported into Utah and will survive and multiply rapidly. Introduction of this pest will cause serious damage to forests, parks and agricultural tree plantings. This pest is also capable of destroying watershed areas and is a nuisance to the general public. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Clark Burgess by phone at 801-538-7188, by FAX at 801-538-7189, or by Internet E-mail at cburgess@utah.gov
♦ 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
♦ Robert Hougaard by phone at 801-538-7187, by FAX at 801-538-7189, or by Internet E-mail at rhougaard@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 05/30/2013

Alcoholic Beverage Control, Administration

R81-10

Off-Premise Beer Retailers

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37673
FILED: 05/31/2013

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: This rule is pursuant to Subsection 32B-7-202(5) that requires an off-premise beer retailer to display beer sold by the retailer in an area that is visibly separate and distinct from the area where a nonalcoholic beverage is displayed, and requires the commission to define by rule what constitutes an "area that is visibly separate and distinct from the area where a nonalcoholic beverage is displayed" and to prominently post in the separate and distinct area where beer is sold, an easily readable sign that reads in print that is no smaller than 0.5 inches, bold type, "These beverages contain alcohol. Please read the label carefully," and requires the commission to define by rule the format of the sign.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There are no records of written comments received during the five-year review period.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Subsection 32B-7-202(5) requires that there be clear and specific separation of alcoholic beverages from non-alcoholic beverage in off-premise outlets. The rule is

necessary to provide guidelines for outlet to follow when placing these products on their premises. It also addresses specific language to be used in alcoholic beverage signage in retail outlets.

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

AUTHORIZED BY: Sal Petilos, Executive Director

EFFECTIVE: 05/31/2013

**Commerce, Securities
 R164-31
 Administrative Fines**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 37660
 FILED: 05/28/2013

**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: Sections 61-1-6 and 61-1-20 of the Utah Uniform Securities Act (Act) authorize the Utah Securities Commission to impose fines in administrative actions. Section 61-1-24 of the Act permits the Utah Securities Division to make rules as necessary to carry out the requirements of the Act in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should continue because it informs the public and licensees of the guidelines used and factors that will be considered by the Utah Securities Commission

when imposing fines in administrative actions filed by the Utah Securities Division.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 COMMERCE
 SECURITIES
 HEBER M WELLS BLDG
 160 E 300 S
 SALT LAKE CITY, UT 84111-2316
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Charles Lyons by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at clyons@utah.gov
 ♦ Keith Woodwell by phone at 801-530-6606, by FAX at 801-530-6980, or by Internet E-mail at kwoodwell@utah.gov

AUTHORIZED BY: Keith Woodwell, Director

EFFECTIVE: 05/28/2013

**Governor, Economic Development
 R357-3
 Refundable Economic Development
 Tax Credit**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 37666
 FILED: 05/30/2013

**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 63M-1-2404(2)(a): "By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the conditions that a business entity or local government entity shall meet to qualify for a tax credit under this part."

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 last five years, the agency has received no written comments on the 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 refundable economic development tax credits as set forth in the statute and the rule are the main

tool the agency uses to promote economic development and expansion in the state. Therefore, this rule should be continued.

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

GOVERNOR
ECONOMIC DEVELOPMENT
60 E SOUTH TEMPLE 3RD FLR
SALT LAKE CITY, UT 84111
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Zachary Derr by phone at 801-538-8746, by FAX at 801-538-8888, or by Internet E-mail at zderr@utah.gov

AUTHORIZED BY: Spencer Eccles, Executive Director

EFFECTIVE: 05/30/2013

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-508
Requirements for Transfer of Bed
Licenses**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37665
FILED: 05/30/2013

**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 policies to administer the Medicaid program. In addition, Section 26-18-505 specifies the provisions that authorize a nursing facility to transfer licensed Medicaid-certified beds to another nursing facility.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: 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 requirements for nursing facilities to transfer bed licenses, sets forth requirements for nursing facilities that receives bed licenses, and spells out provisions

for license expiration and forfeiture. All of these requirements provide cost effective services for Medicaid recipients.

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: 05/30/2013

**Health, Family Health and
Preparedness, Child Care Licensing
R430-50
Residential Certificate Child Care**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37661
FILED: 05/29/2013

**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 26-39-104(1)(a) allows the Department of Health to "make and enforce rules to implement this chapter and, as necessary to protect children's common needs for a safe and healthy environment..."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule contains the ongoing operational health and safety standards for residential certificate child care providers. The continuation of this rule is necessary in

order for the Department of Health to continue to fulfill its statutory responsibility to regulate child care programs in order to protect the health and safety of the children in these programs.

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

HEALTH
FAMILY HEALTH AND PREPAREDNESS,
CHILD CARE LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Simon Bolivar by phone at 801-584-8223, by FAX at 801-584-8467, or by Internet E-mail at sbolivar@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 05/29/2013

statutory responsibility to regulate child care programs in order to protect the health and safety of the children in these programs.

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

HEALTH
FAMILY HEALTH AND PREPAREDNESS,
CHILD CARE LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Simon Bolivar by phone at 801-584-8223, by FAX at 801-584-8467, or by Internet E-mail at sbolivar@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 05/29/2013

**Health, Family Health and Preparedness, Child Care Licensing
R430-60
Hourly Child Care Centers**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 37662
FILED: 05/29/2013

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 26-39-104(1)(a) allows the Department of Health to "make and enforce rules to implement this chapter and, as necessary to protect children's common needs for a safe and healthy environment...."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule is necessary in order for the Department of Health to continue to fulfill its

**Health, Family Health and Preparedness, Child Care Licensing
R430-90
Licensed Family Child Care**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 37663
FILED: 05/29/2013

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 26-39-104(1)(a) allows the Department of Health to "make and enforce rules to implement this chapter and, as necessary to protect children's common needs for a safe and healthy environment...."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule is necessary in order for the Department of Health to continue to fulfill its statutory responsibility to regulate child care programs in

order to protect the health and safety of the children in these programs.

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

HEALTH
FAMILY HEALTH AND PREPAREDNESS,
CHILD CARE LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Simon Bolivar by phone at 801-584-8223, by FAX at 801-584-8467, or by Internet E-mail at sbolivar@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 05/29/2013

Human Services, Child and Family
Services
R512-300
Out-of-Home Services

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37639
FILED: 05/16/2013

**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 62A-4a-102 authorizes the Division of Child and Family Services to establish rules in order to provide programs and services that support the strengthening of family values, including services which preserve and enhance family life and relationships; protect children, youth, and families; and advocate and defend family values established by public policy and advocacy and education.

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: Continuation of this rule is necessary in order for the Division of Child and Family Services to provide out-of-home services pursuant to Sections 62A-4a-105 and 62A-4a-106.

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov
♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov

AUTHORIZED BY: Brent Platt, Director

EFFECTIVE: 05/16/2013

Human Services, Child and Family
Services
R512-301

Out-of-Home Services, Responsibilities
Pertaining to a Parent or Guardian

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 37640
FILED: 05/16/2013

**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 62A-4a-102 authorizes the Division of Child and Family Services to establish rules in order to provide programs and services that support the strengthening of family values, including services which preserve and enhance family life and relationships; protect children, youth, and families; and advocate and defend family values established by public policy and advocacy and education.

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: Continuation of this rule is necessary in order for the Division of Child and Family Services to provide out-of-home services pursuant to Sections 62A-4a-105 and 62A-4a-106.

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov
♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov

AUTHORIZED BY: Brent Platt, Director

EFFECTIVE: 05/16/2013

**Human Services, Child and Family Services
R512-302**

Out-of-Home Services, Responsibilities Pertaining to an Out-of-Home Caregiver

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37641
FILED: 05/16/2013

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 62A-4a-102 authorizes the Division of Child and Family Services to establish rules in order to provide programs and services that support the strengthening of family values, including services which preserve and enhance family life and relationships; protect children, youth, and families; and advocate and defend family values established by public policy and advocacy and education.

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: Continuation of this rule is necessary in order for the Division of Child and Family Services to provide out-of-home services pursuant to Sections 62A-4a-105 and 62A-4a-106.

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov
♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov

AUTHORIZED BY: Brent Platt, Director

EFFECTIVE: 05/16/2013

**Human Services, Child and Family Services
R512-305
Out-of-Home Services, Transition to Adult Services**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37642
FILED: 05/16/2013

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 62A-4a-102 authorizes the Division of Child and Family Services to establish rules in order to provide programs and services that support the

strengthening of family values, including services which preserve and enhance family life and relationships; protect children, youth, and families; and advocate and defend family values established by public policy and advocacy and education.

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: Continuation of this rule is necessary in order for the Division of Child and Family Services to provide out-of-home services, including transition to adult living services, pursuant to Sections 62A-4a-105 and 62A-4a-106.

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov
♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov

AUTHORIZED BY: Brent Platt, Director

EFFECTIVE: 05/16/2013

Natural Resources, Wildlife Resources

R657-53

Amphibian and Reptile Collection,
Importation, Transportation and
Possession

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37667
FILED: 05/30/2013

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 23-14-18, and 23-14-19 the Wildlife Board is authorized and required to regulate and prescribe the means to allow the collection, importation, exportation, transportation and possession of amphibians and reptiles and their parts.

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 R657-53 have been received since 06/02/2008, 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 R657-53 is necessary to provide the procedures, protocols, and guidelines for the collection, importation, transportation, possession and propagation of amphibians and reptiles. Continuation of this rule is necessary to provide the standards and procedures 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: 05/30/2013

Professional Practices Advisory

Commission, Administration

R686-101

Alcohol Related Offenses

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37637
FILED: 05/16/2013

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-6-306(1)(a)

directs the Utah Professional Practices Advisory Commission to adopt rules to carry out its responsibilities under the law.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR 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 disciplining educators and prospective educators regarding alcohol related offenses. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 PROFESSIONAL PRACTICES ADVISORY
 COMMISSION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY, UT 84111
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Carol Lear 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: 05/16/2013

**Professional Practices Advisory
 Commission, Administration
 R686-102
 Drug Related Offenses**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 37638
 FILED: 05/16/2013

**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-6-306(1)(a) directs the Utah Professional Practices Advisory Commission to adopt rules to carry out its responsibilities under the law.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR 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 disciplining educators and prospective educators regarding drug related offenses. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 PROFESSIONAL PRACTICES ADVISORY
 COMMISSION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY, UT 84111
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Carol Lear 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: 05/16/2013

**Workforce Services, Unemployment
 Insurance
 R994-306
 Charging Benefit Costs to Employers**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 37652
 FILED: 05/16/2013

**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 35A-4-303 explains how contribution rates are calculated, Section 35A-4-306 explains when employers will be charged benefit costs, and Subsection 35A-4-502(1)(b) provides that the Department make, amend, or rescind any rules necessary for the administration of the Employment Security Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: 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: The rule is necessary to explain when an employer will be charged for benefit costs, how the employer will be notified, and how the employer can protest those charges. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 WORKFORCE SERVICES
 UNEMPLOYMENT INSURANCE
 140 E 300 S
 SALT LAKE CITY, UT 84111-2333
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 05/16/2013

**Workforce Services, Unemployment
 Insurance
 R994-307
 Social Costs -- Relief of Charges**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 37651
 FILED: 05/16/2013

**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 35A-4-303 explains how contribution rates are calculated, and Section 35A-4-207 explains when employers will be charged and when social costs can be used. Section 35A-1-104 authorizes the Department of Workforce Services to adopt rules.

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: The rule is an essential tool for explaining when an employer will be eligible for relief of charges and when benefit costs can be charged to social costs for contributory employers. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 WORKFORCE SERVICES
 UNEMPLOYMENT INSURANCE
 140 E 300 S
 SALT LAKE CITY, UT 84111-2333
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 05/16/2013

**Workforce Services, Unemployment
 Insurance
 R994-315
 Centralized New Hire Registry
 Reporting**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 37650
 FILED: 05/16/2013

**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 35A-7-101 et seq., 42 U.S.C. 654(a) et seq., and Pub. L. No. 104-193 mandate a new hire registry be maintained by the Department. This rules explains how parties can comply with those laws.

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: The new hire registry is mandated by federal and state law and is used to assist in child support and detecting fraud against unemployment benefits. By knowing when individuals have returned to work, the agency can stop benefit payments and protect the trust fund. Therefore, this rule should be continued.

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

WORKFORCE SERVICES
 UNEMPLOYMENT INSURANCE
 140 E 300 S
 SALT LAKE CITY, UT 84111-2333
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 05/16/2013

**Workforce Services, Unemployment
 Insurance
 R994-403
 Claim for Benefits**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 37647
 FILED: 05/16/2013

**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: This provision explains how to file a new claim, when a claim can be cancelled or reopened, job search requirements and able and availability requirements. It also explains the responsibilities of both parties in the claims process and when deferrals will be granted. Section 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security Act. Subsection 35A-4-403(1) establishes eligibility standards and Subsection 35A-4-403(3) allows the Department to grant deferrals.

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 is essential for providing claimants, employers and Department employees with information regarding eligibility for ongoing benefits including how the statute and court decisions define eligibility terms. Therefore, this rule should be continued.

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

WORKFORCE SERVICES
 UNEMPLOYMENT INSURANCE
 140 E 300 S
 SALT LAKE CITY, UT 84111-2333
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 05/16/2013

**Workforce Services, Unemployment
 Insurance
 R994-405
 Ineligibility for Benefits**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 37648
 FILED: 05/16/2013

**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: This rule explains when claimants are eligible for benefits after a job separation, temporary help company and professional employer organization rules, and definitions of suitable work. Section 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules

necessary for the administration of the Employment Security Act. Section 35A-4-405 provides for circumstances when a claimant is ineligible. This rule provides guidance to all parties to help decide when a claimant is ineligible.

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 is essential for determining when claimants will be eligible for benefits in the event of a discharge or a quit. It contains information from state and federal law regarding eligibility after a separation and what is considered suitable new work. It is also essential for determining when benefits will be allowed in the event of a strike and how vacation and severance payments will be calculated and when they will be disqualifying. It is also essential for determining when educational employees and professional athletes are eligible and alien status. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 WORKFORCE SERVICES
 UNEMPLOYMENT INSURANCE
 140 E 300 S
 SALT LAKE CITY, UT 84111-2333
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 05/16/2013

**Workforce Services, Unemployment
 Insurance
 R994-508
 Appeal Procedures**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 37649
 FILED: 05/16/2013

**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: This rule explains the procedures followed in the appeal process. Sections 35A-4-508 and 35A-4-406 explain how reviews will be handled. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security Act. Section 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Section 35A-1-303 gives the Department the authority to adopt rules governing adjudicative procedures.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: 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 is essential to explain the appeals procedure including when the Department has jurisdiction and how and when appeals may be filed. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 WORKFORCE SERVICES
 UNEMPLOYMENT INSURANCE
 140 E 300 S
 SALT LAKE CITY, UT 84111-2333
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 05/16/2013

End of the Five-Year Notices of Review and Statements of Continuation 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

Education

Administration

No. 37413 (AMD): R277-600. Student Transportation

Standards and Procedures

Published: 04/01/2013

Effective: 05/16/2013

No. 37414 (AMD): R277-610. Released-Time Classes

Published: 04/01/2013

Effective: 05/16/2013

No. 37415 (AMD): R277-702. Procedures for the Utah High

School Completion Diploma (Effective on July 1, 2009)

Published: 04/01/2013

Effective: 05/16/2013

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 37422 (AMD): R414-1-5. Incorporations by Reference

Published: 04/15/2013

Effective: 05/29/2013

No. 37085 (AMD): R414-29. Client Review/Education and

Restriction Policy

Published: 12/15/2012

Effective: 05/16/2013

No. 37085 (CPR): R414-29. Client Review/Education and

Restriction Policy

Published: 04/01/2013

Effective: 05/16/2013

Family Health and Preparedness, Emergency Medical Services

No. 37411 (NEW): R426-2. Air Medical Service Rules

Published: 04/01/2013

Effective: 05/30/2013

No. 37410 (NEW): R426-6. Emergency Medical Services
Competitive Grants Program Rules

Published: 04/01/2013

Effective: 05/30/2013

Pardons (Board Of)

Administration

No. 37438 (AMD): R671-312. Commutation Hearings for

Death Penalty Cases

Published: 04/15/2013

Effective: 05/22/2013

No. 37439 (NEW): R671-312A. Commutation Procedures

Applicable to Persons Sentenced to Death Before April 26,
1992

Published: 04/15/2013

Effective: 05/22/2013

No. 37440 (NEW): R671-312B. Commutation Procedures

Applicable to Persons Sentenced to Death After April 26,
1992

Published: 04/15/2013

Effective: 05/22/2013

No. 37455 (AMD): R671-315. Pardons

Published: 04/15/2013

Effective: 05/22/2013

No. 37456 (AMD): R671-509. Parole Progress / Violation
Reports

Published: 04/15/2013

Effective: 05/22/2013

No. 37457 (AMD): R671-510. Evidence for Issuance of

Warrants

Published: 04/15/2013

Effective: 05/22/2013

No. 37458 (AMD): R671-512. Execution of the Warrant

Published: 04/15/2013

Effective: 05/22/2013

NOTICES OF RULE EFFECTIVE DATES

No. 37459 (AMD): R671-513. Expedited Determination of Parolee Challenge to Probable Cause
Published: 04/15/2013
Effective: 05/22/2013

No. 37460 (AMD): R671-514. Waiver and Pleas of Guilt
Published: 04/15/2013
Effective: 05/22/2013

No. 37461 (AMD): R671-515. Timeliness of Parole Revocation Hearings
Published: 04/15/2013
Effective: 05/22/2013

No. 37462 (AMD): R671-516. Parole Revocation Hearings
Published: 04/15/2013
Effective: 05/22/2013

No. 37463 (AMD): R671-517. Evidentiary Hearings and Proceedings
Published: 04/15/2013
Effective: 05/22/2013

No. 37464 (AMD): R671-519. Proceedings When Criminal Charges Result in Acquittal
Published: 04/15/2013
Effective: 05/22/2013

No. 37465 (AMD): R671-520. Treatment of Confidential Testimony
Published: 04/15/2013
Effective: 05/22/2013

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 31, 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>Archives</u>					
R17-5	Definitions for Rules in Title R17	37653	5YR	05/17/2013	Not Printed
R17-6	Records Storage and Disposal at the State Records Center	37654	5YR	05/17/2013	Not Printed
R17-7	Archival Records Care and Access at the State Archives	37659	5YR	05/28/2013	Not Printed
R17-8	Application of Microfilm Standards	37655	5YR	05/17/2013	Not Printed
<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	2013-11/81
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
R68-16	Quarantine Pertaining to Pine Shoot Beetle, Tomicus piniperda	37669	5YR	05/30/2013	Not Printed
<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	2013-11/84

ALCOHOLIC BEVERAGE CONTROL

Administration

R81-1-31	Duties of the Commission Subcommittees	37611	EMR	05/13/2013	2013-11/88
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
R81-10	Off-Premise Beer Retailers	37673	5YR	05/31/2013	Not Printed
R81-10A-3	Application	37374	AMD	04/30/2013	2013-6/13
R81-10C-2	Application	37375	AMD	04/30/2013	2013-6/14
R81-10D-2	Application	37376	AMD	04/30/2013	2013-6/15
R81-11-1	Application	37378	AMD	04/30/2013	2013-6/16

CAPITOL PRESERVATION BOARD (STATE)

Administration

R131-2	Capitol Hill Complex Facility Use	37064	AMD	01/07/2013	2012-23/9
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CAREER SERVICE REVIEW OFFICE

Administration

R137-2	Government Records Access and Management Act	37535	5YR	04/23/2013	2013-10/213
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COMMERCE

Occupational and Professional Licensing

R156-1	General Rule of the Division of Occupational and Professional Licensing	37395	NSC	04/01/2013	Not Printed
R156-1-102	Definitions	37199	AMD	03/11/2013	2013-3/2
R156-3a-102	Definitions	37073	AMD	01/24/2013	2012-24/6
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rule	37074	AMD	01/24/2013	2012-24/7
R156-31b	Nurse Practice Act Rule	37417	5YR	03/18/2013	2013-8/53
R156-37	Utah Controlled Substances Act Rule	37040	AMD	01/08/2013	2012-23/18
R156-37-502	Unprofessional Conduct	37175	NSC	01/30/2013	Not Printed
R156-37f	Controlled Substance Database Act Rule	37039	NEW	01/08/2013	2012-23/21
R156-44a	Nurse Midwife Practice Act Rules	37071	AMD	01/22/2013	2012-24/11
R156-49	Dietitian Certification Act Rule	37273	5YR	02/07/2013	2013-5/189
R156-53	Landscape Architects Licensing Act Rule	37274	5YR	02/07/2013	2013-5/190
R156-55a	Utah Construction Trades Licensing Act Rule	37364	AMD	04/22/2013	2013-6/17
R156-67-306	Exemptions from Licensure	37270	AMD	04/08/2013	2013-5/10
R156-68	Utah Osteopathic Medical Practice Act Rule	37272	5YR	02/07/2013	2013-5/191
R156-68-306	Exemptions from Licensure	37271	AMD	04/08/2013	2013-5/11
R156-82	Electronic Prescribing Act Rule	37202	NEW	03/11/2013	2013-3/5
R156-82	Electronic Prescribing Act Rule	37396	NSC	04/01/2013	Not Printed

Real Estate

R162-2f	Real Estate Licensing and Practices Rules	37393	AMD	05/08/2013	2013-7/8
R162-2f-403	Trust Accounts	37394	AMD	05/08/2013	2013-7/16
R162-2g	Real Estate Appraiser Licensing and Certification Administrative Rules	36973	AMD	01/02/2013	2012-22/19
R162-57a	Timeshare and Camp Resort Rules	37076	AMD	04/02/2013	2012-24/14

Securities

R164-31	Administrative Fines	37660	5YR	05/28/2013	Not Printed
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R164-31-1 Guidelines for the Assessment of Administrative Fines 37042 AMD 01/08/2013 2012-23/26

CORRECTIONS

Administration

R251-114 Offender Long-Term Health Care - Notice 37389 5YR 03/07/2013 2013-7/61

CRIME VICTIM REPARATIONS

Administration

R270-1 Award and Reparation Standards 37061 AMD 01/07/2013 2012-23/27
 R270-1 Award and Reparation Standards 37166 NSC 01/30/2013 Not Printed
 R270-1 Award and Reparation Standards 37380 AMD 04/22/2013 2013-6/25
 R270-2 Crime Victim Reparations Adjudicative Proceedings 37063 AMD 01/07/2013 2012-23/33
 R270-2 Crime Victim Reparations Adjudicative Proceedings 37167 NSC 01/30/2013 Not Printed

EDUCATION

Administration

R277-101 Utah State Board of Education Procedures 37355 AMD 04/22/2013 2013-6/26
 R277-104 ADA Complaint Procedure 37626 5YR 05/15/2013 2013-11/97
 R277-113 LEA Fiscal Policies and Accountability 37356 NEW 04/22/2013 2013-6/28
 R277-113-5 Required LEA Fiscal Policies 37538 NSC 05/17/2013 Not Printed
 R277-436 Gang Prevention and Intervention Programs in the Schools 37627 5YR 05/15/2013 2013-11/97
 R277-445-3 Standards 37278 AMD 04/08/2013 2013-5/13
 R277-460 Distribution of Substance Abuse Prevention Account 37628 5YR 05/15/2013 2013-11/98
 R277-460-6 Evaluation and Reports 37419 NSC 04/15/2013 Not Printed
 R277-469 Instructional Materials Commission Operating Procedures 37494 5YR 04/08/2013 2013-9/31
 R277-483 Persistently Dangerous Schools 37495 5YR 04/08/2013 2013-9/31
 R277-484 Data Standards 37145 AMD 02/21/2013 2013-2/4
 R277-485 Loss of Enrollment 37496 5YR 04/08/2013 2013-9/32
 R277-487 Public School Student Confidentiality 37144 AMD 02/21/2013 2013-2/7
 R277-491 School Community Councils 37629 5YR 05/15/2013 2013-11/98
 R277-498 Grant for Math Teaching Training 37279 NEW 04/08/2013 2013-5/14
 R277-498-4 Criteria for Awarding Grants 37507 NSC 04/29/2013 Not Printed
 R277-502 Educator Licensing and Data Retention 37058 AMD 01/07/2013 2012-23/34
 R277-502 Educator Licensing and Data Retention 37146 AMD 02/21/2013 2013-2/10
 R277-508 Employment of Substitute Teachers 37497 5YR 04/08/2013 2013-9/32
 R277-509 Licensure of Student Teachers and Interns 37059 AMD 01/07/2013 2012-23/39
 R277-517 Board and UPPAC Disciplinary Definitions and Actions 37147 NEW 02/21/2013 2013-2/15
 R277-517-5 Board Disciplinary Actions 37359 NSC 03/15/2013 Not Printed
 R277-518 Career and Technical Education Licenses 37399 5YR 03/12/2013 2013-7/61
 R277-532 Local Board Policies for Evaluation of Non-Licensed Public Education Employees (Classified Employees) 37280 NEW 04/08/2013 2013-5/16
 R277-600 Student Transportation Standards and Procedures 37400 5YR 03/12/2013 2013-7/62
 R277-600 Student Transportation Standards and Procedures 37413 AMD 05/16/2013 2013-7/20
 R277-605 Coaching Standards and Athletic Clinics 37401 5YR 03/12/2013 2013-7/62
 R277-610 Released-Time Classes 37402 5YR 03/12/2013 2013-7/63
 R277-610 Released-Time Classes 37414 AMD 05/16/2013 2013-7/24
 R277-614 Athletes and Students with Head Injuries 37630 5YR 05/15/2013 2013-11/99
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 R277-709 Education Programs Serving Youth in Custody 37405 5YR 03/12/2013 2013-7/64

R277-709-3	Student Evaluation, Education Plans, and LEA Programs	37244	NSC	02/15/2013	Not Printed
R277-719	Standards for Selling Foods Outside of the Reimbursable Meal in Schools	37406	5YR	03/12/2013	2013-7/65
R277-746	Driver Education Programs for Utah Schools	37498	5YR	04/08/2013	2013-9/33
R277-751	Special Education Extended School Year (ESY)	37499	5YR	04/08/2013	2013-9/33
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R305-6	Administrative Procedures	36554	REP	01/31/2013	2012-16/28
R305-6	Administrative Procedures	36554	CPR	01/31/2013	2013-1/32
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R305-9	Recusal of a Board Member for Conflict of Interest	36776	NEW	02/22/2013	2012-19/28
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R307-101-2	Definitions	36723	CPR	02/01/2013	2013-1/38
R307-102	General Requirements: Broadly Applicable Requirements	37261	5YR	02/06/2013	2013-5/191
R307-115	General Conformity	37260	5YR	02/06/2013	2013-5/192
R307-170	Continuous Emission Monitoring Program	37259	5YR	02/06/2013	2013-5/192
R307-208	Outdoor Wood Boiler Prohibition	36481	NEW	04/10/2013	2012-15/12
R307-208	Outdoor Wood Boiler Prohibition	36481	CPR	04/10/2013	2012-23/56
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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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	37140	R612-12	REP	02/25/2013	2013-2/55	
	37141	R612-13	REP	02/25/2013	2013-2/57	
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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	
36733	R307-351	NEW	02/01/2013	2012-19/80	
36733	R307-351	CPR	02/01/2013	2013-1/69	
37235	R307-351-4	NSC	02/15/2013	Not Printed	
36734	R307-352	NEW	02/01/2013	2012-19/84	
36734	R307-352	CPR	02/01/2013	2013-1/73	
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36735	R307-353	CPR	05/01/2013	2013-7/46	
36736	R307-354	NEW	02/01/2013	2012-19/88	
36736	R307-354	CPR	02/01/2013	2013-1/79	
36737	R307-355	NEW	02/01/2013	2012-19/91	
36737	R307-355	CPR	02/01/2013	2013-1/82	
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37236	R307-401-15	NSC	02/15/2013	Not Printed	
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	37377	R81-9-1	AMD	04/30/2013	2013-6/12
	37673	R81-10	5YR	05/31/2013	Not Printed
	37374	R81-10A-3	AMD	04/30/2013	2013-6/13
	37375	R81-10C-2	AMD	04/30/2013	2013-6/14
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	36731	R307-349	NEW	02/01/2013	2012-19/74
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