UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Kenneth A. Hansen, Director
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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, 4120 State Office Building, Salt Lake City, Utah 84114-1201, telephone 801-538-3764, FAX 801-359-0759. 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

Utah state bulletin.
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EDITOR'S NOTES

Publication Error on the Filing for Rule R392-302, DAR No. 33873, in the August 15, 2010, Bulletin

The Department of Health and the Division of Administrative Rules have discovered an error in the text of Rule R392-302, DAR No. 33873, published in the PDF version of the August 15, 2010, issue of the Utah State Bulletin.

At Subsection R392-302-22(6), Table 2, markup should have appeared showing additions and deletions in the table. This markup, while present in the text filed by the Department of Health, does not appear in the final PDF version published at the Division's web site. However, the markup correctly appears in the HTML version of the published rule; see: http://www.rules.utah.gov/publicat/bulletin/2010/20100815/33873.htm

The correct text is reproduced below. Please note that the identification of this error impinges in no way on the Department of Health's ability to make this proposed amendment effective as planned. The Division regrets any inconvenience caused by this error.

R392-302-22. Safety Requirements and Lifesaving Equipment.

(1) Areas of a[~~A~~] public pool with water depth greater than six feet or a width greater than forty feet and a depth greater than four feet where a lifeguard is required under Subsection R392-302-30(2) shall provide for a minimum number of elevated lifeguard [~~chair(s)~~]stations in accordance with Table 2. Elevated l[~~L~~]ifeguard [~~chair(s)~~]stations shall be located to provide a clear unobstructed view of the pool bottom by lifeguards on duty.

(2) A public pool must have at least one unit of lifesaving equipment. One unit of lifesaving equipment must consist of the following: a Coast Guard-approved ring buoy with an attached rope equal in length to the maximum width of the pool plus 10 feet[~~, American Red Cross-approved rescue tube;~~] and a life pole or shepherd's crook type pole with blunted ends and a minimum length of 12 feet, 3.66 meters. The facility operator may substitute a rescue tube for a ring buoy where lifeguard service is provided. Additional units must be provided at the rate of one for each 2,000 square feet, 185.8 square meters, of surface area or fraction thereof. The operator of a pool that has lifeguard services shall provide at least one backboard designed with straps and head stabilization capability.

(3) A public pool must be equipped with a [~~Utah Department of Health standard 27-unit~~]first aid kit which includes a minimum of the following items:

[~~2 Units 1 inch adhesive compress.~~
~~2 Units 2 inch bandage compress.~~
~~2 Units 3 inch bandage compress.~~
~~2 Units 4 inch bandage compress.~~
~~2 Units 3 inch square plain gauze pads.~~
~~2 Units gauze roller bandage.~~
~~]~~2 Units eye dressing packet;[~~-~~
~~1 Unit plain absorbent gauze, .5 sq. yard.~~
~~1 Unit plain absorbent gauze, 24 inches by 72 inches.~~
~~2 Units bandage tape.~~
~~1 Unit butterfly closures, 1 box.~~
~~1 Unit 3 inch ace bandage.~~
~~1 Unit assorted adhesive band-aids, 1 box.~~]

2 Units triangular bandages;[~~-~~]

1 [~~Unit~~]CPR [~~micro~~]shield;[~~-~~]

1 [~~Unit~~]scissors;[~~-~~]

1 [~~Unit~~]tweezers;[~~-~~]

[~~1~~]6 [~~Unit latex~~]pairs disposable medical exam gloves[~~, 6 pairs per unit.~~]; and

Assorted types and sizes of the following: self adhesive bandages, compresses, roller type bandages and bandage tape.

(a) The [~~27 unit~~]operator shall keep the first-aid kit [~~must be kept~~]filled, available, and ready for use.

(4) Lifesaving equipment must be mounted in readily accessible, conspicuous places around the pool deck. The operator shall maintain it[~~It must be maintained~~] in good repair and operable condition. The operator and lifeguards shall prevent the removal of lifesaving equipment or use of it[~~Lifesaving equipment may not be used or removed by anyone~~] for any reason other than its intended purpose.

(5) Where no lifeguard service is provided in accordance with Subsection R392-302-30(2), a warning sign must be placed in plain view and shall state: WARNING - NO LIFEGUARD ON DUTY and BATHERS SHOULD NOT SWIM ALONE, with clearly legible letters, at least 4 inches high, 10.16 centimeters. In addition, the sign must also state CHILDREN 14 AND UNDER SHOULD NOT USE POOL WITHOUT RESPONSIBLE ADULT SUPERVISION.

(6) Where lifeguard service is required, the facility must have a readily accessible area designated and equipped for emergency first aid care.

TABLE 2

Safety Equipment and Signs

	POOLS WITH LIFEGUARD	POOLS WITH NO LIFEGUARD
[~~Elevated Chair~~ ~~1,000 through 2,999 sq. ft., 92.9 through 278.61 sq. meters, of surface area~~	~~1~~	~~None~~
~~Each additional 2,000 sq. ft., 185.8 sq. meters, of surface area or fraction~~	~~1 additional~~	~~None~~
]Elevated Station	1 per 2,000 sq. ft., 185 sq. meters, of pool area or fraction	None
Backboard	1 per facility	None
Room for Emergency Care	1 per facility	None
Ring Buoy with an attached rope equal in length to the maximum width of the pool plus 10 feet, 3.05 meters	1 per 2,000 sq. ft., 185 sq. meters, of pool area or fraction	1 per 2,000 sq. ft., 185 sq. meters, of pool area or fraction
Rescue Tube (used as a substitute[~~for ring buoys when lifeguards are present)~~]	1 per 2,000 sq. ft., 185 sq. meters, of pool area or fraction	None sq. ft., 185 sq. meters, of pool area or fraction
Life Pole or Shepherds Crook	1 per 2,000 sq. ft. 185, sq. meters, of pool area or fraction	1 per 2,000 sq. ft. 185, sq. meters, of pool area or fraction
First Aid Kit	1 per facility	1 per facility

[~~(7) A spa pool is exempt from Section R392-302-22, except for Section R392-302-22(3).~~
~~(8) The water temperature in a spa pool may not exceed 105 degrees Fahrenheit.~~
]

Questions regarding this publication error should be addressed to: Nancy Lancaster, Publications Editor, Division of Administrative Rules, telephone: 801-538-3218, or at email: nllancaster@utah.gov.

End of the Editor's Notes Section

EXECUTIVE DOCUMENTS

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

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

Governor's Executive Order EO/009/2010: Wildland Fire Management

EXECUTIVE ORDER

Wildland Fire Management

WHEREAS, the danger from wildland fires is extremely high throughout the State of Utah;

WHEREAS, numerous wildland fires are burning and continue to burn in various areas statewide and present a serious threat to public safety, property, natural resources and the environment;

WHEREAS, some of the areas are extremely remote and inaccessible and the situation has the potential to greatly worsen if left unattended;

WHEREAS, immediate action is required to suppress the fires and mitigate post-burn flash floods to protect public safety, property, natural resources and the environment;

WHEREAS, these conditions do create a disaster emergency within the intent of the Disaster Response and Recovery Act of 1981,

NOW THEREFORE, I, Gary R. Herbert, Governor of the State of Utah by virtue of the power vested in me by the constitution and the laws of the State of Utah, do hereby order that:

It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, natural resources and the environment for thirty days, effective as of September 10, 2010 requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 10th day of September 2010

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Greg Bell
Lieutenant Governor

EO/009/2010

Governor's Proclamation 2010/08/E: Calling the Fifty-Eighth Legislature into the Eighth Extraordinary Session

P R O C L A M A T I O N

WHEREAS, since the close of the 2010 General Session of the 58th Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

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

NOW, THEREFORE, I, GARY R. HERBERT, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and Laws of the State of Utah, do by this Proclamation call the Senate only of the 58th Legislature into the Eighth Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 19th day of May, 2010, at 12:00 noon, for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2010 General Session of the Legislature of the State of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 4th day of May, 2010.

(State Seal)

Gary R. Herbert
Governor

Greg Bell
Lieutenant Governor

2010/08/E

Governor's Proclamation 2010/10/E: Calling the Fifty-Eighth Legislature into the Tenth Extraordinary Session

P R O C L A M A T I O N

WHEREAS, since the close of the 2010 General Session of the 58th Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

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

NOW, THEREFORE, I, GARY R. HERBERT, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and Laws of the State of Utah, do by this Proclamation call the Senate only of the 58th Legislature into the Tenth Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 18th day of August, 2010, at 12:00 noon, for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2010 General Session of the Legislature of the State of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 3rd day of August 2010.

(State Seal)

Gary R. Herbert
Governor

Greg Bell
Lieutenant Governor

2010/10/E

End of the Executive Documents 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 September 02, 2010, 12:00 a.m., and September 15, 2010, 11:59 p.m. are included in this, the October 01, 2010 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 November 1, 2010. 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 January 29, 2011, the agency may notify the Division of Administrative Rules that it wants to make the **Proposed Rule** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **Change in Proposed Rule** in response to comments received. If the Division of Administrative Rules does not receive a **Notice of Effective Date** or a **Change in Proposed Rule**, the **Proposed Rule** lapses and the agency must start the process over.

The public, interest groups, and governmental agencies are invited to review and comment on **Proposed Rules**. *Comment may be directed to the contact person identified on the* Rule Analysis *for each rule.*

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

The Proposed Rules Begin on the Following Page

Alcoholic Beverage Control, Administration
R81-7-1
Application Guidelines

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34058
FILED: 09/07/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule amendment is filed to implement the commission's desire to define "convention, civic or community enterprise" as referenced in the single event permit statute (Subsection 32A-7-101(1)).

SUMMARY OF THE RULE OR CHANGE: The current law allows the commission to issue single event permits to those who are conducting a convention, civic or community enterprise. To provide consistency, the rule amendment defines "convention, civic or community enterprise".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32A-1-107

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: None--This rule amendment defines "convention, civic or community enterprise" as referenced in the single event permit statute (Subsection 32A-7-101(1)). There are no costs or savings involved in this rule amendment.
♦ LOCAL GOVERNMENTS: None--Single event permits are issued by the Department of Alcoholic Beverage Control and not local governments.
♦ SMALL BUSINESSES: None--Many of the applicants operate small businesses. The single event permit fees remain unchanged and should not affect small businesses. This rule amendment merely defines "convention, civic or community enterprise" as referenced in the single event permit statute (Subsection 32A-7-101(1)).
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--There are no costs or savings for other persons as a result of this amendment because they do not apply for single event permits.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Since the application fee remains unchanged, businesses should experience no additional compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The current law allows the commission to issue single event permits to those who are conducting a convention, civic or community enterprise. This rule amendment defines "convention, civic or community enterprise" which will assist the commission as they evaluate the applications each month. There will not be a fiscal impact on businesses as the application fee remains unchanged.

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:
♦ Vickie Ashby by phone at 801-977-6801, by FAX at 801-977-6889, or by Internet E-mail at vickieashby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2010

AUTHORIZED BY: Dennis Kellen, Director

R81. Alcoholic Beverage Control, Administration.
R81-7. Single Event Permits.
R81-7-1. Application Guidelines.

(1) A single event permit [~~application for the purpose of~~]is issued to those who are conducting a convention, civic or community enterprise[~~, shall be included in the agenda of the monthly commission meeting for consideration for issuance of a single event permit, when the requirements of Section 32A-7 have been met, and a completed application has been received by the department~~].

(a) "Conducting" [~~as used herein~~]means the conduct, management, control or direction of an event. The organization directly benefiting from the event, monetarily or otherwise, shall be deemed to be conducting the event.

(b) "Convention, civic or community enterprise" means a function that is in the nature of a temporary special event such as a social, business, religious, political, governmental, educational, recreational, cultural, charitable, athletic, theatrical, scholastic, artistic, or scientific event. A "civic or community enterprise" generally is a gathering that brings members of a community together for the common good.

(2) An application for a single event permit application shall be included on the agenda of the monthly commission meeting for consideration for issuance of a single event permit when the requirements of Section 32A-7 have been met, and a completed application has been received by the department.

[~~(2)~~](3) Pursuant to Section 32A-7-101, the commission may grant single event permits to a bona fide partnership, corporation, limited liability company, church, political organization, or incorporated association, and to each bona fide and recognized subordinate lodge, chapter or local unit of any qualifying parent entity. To be a "bona fide" and "recognized" subordinate or local entity, the applicant must have been in existence for at least one year prior to the date of the application and must furnish proof thereof.

[~~(3)~~](4) If the applicant is a bona fide incorporated association, corporation, or a separately incorporated subordinate lodge, chapter or local unit thereof, the applicant shall submit a copy of its certificate and articles of incorporation from the state, which reflect that the applicant has been in existence for at least one year prior to date of application.

[~~(4)~~](5) If the applicant is a bona fide limited liability company, the applicant shall submit a copy of its limited liability company certificate of existence from the state, which reflects that the applicant has been in existence for at least one year prior to date of application.

[~~(5)~~](6) If the applicant is a bona fide church, political organization, or recognized subordinate chapter or local unit thereof, the applicant shall submit proof of its tax exempt status as provided by the Internal Revenue Service.

[~~(6)~~](7) Any subordinate or local entity of a parent entity must also establish that it is duly "recognized" by the parent entity by providing written verification of its "recognized" status such as a letter from, or bylaws of the parent entity. The subordinate or local unit shall also furnish proof that the parent entity qualifies under sections (1), (2), (3), (4), and (5) of this rule. These requirements shall not apply in situations where the subordinate or local unit is separately incorporated.

[~~(7)~~](8) Single event permits are issued to state agencies, political subdivisions of the state, and organizations listed in Subsection (2) that are conducting a convention, civic or community enterprise. Single event permits may not be issued to or obtained by an entity or organization for the purpose of avoiding or attempting to avoid the requirement of state retail alcohol licensing.

To ensure compliance with this Subsection (7), the commission may consider factors such as:

(a) the purpose of the entity or organization;

(b) the nature and purpose of the event;

(c) the type of entertainment, if any, at the event;

(d) the location of the event;

(e) the frequency of events held at the same location;

(f) whether the location is government owned and operated; and

(g) the extent to which the event:

(i) benefits the community;

(ii) is held for charitable purposes; or

(iii) is held for the profit of the entity or organization.

[~~(8)~~](9) Calendar year is defined as January 1 through December 31.

[~~(9)~~](10) The single event permit bond, as required by Section 32A-7-105, shall not be released back to the single event permittee until the permittee provides to the department the required data regarding liquor purchases, sales, prices charged, and net profit generated at the event for which the single event permit was issued.

[~~(10)~~](11) If an organization or individual other than the one applying for the single event permit posts the $1,000 bond required by Section 32A-7-105, an affidavit must be submitted attesting that the $1,000 bond is for the permittee's compliance with the provisions of the Act and the commission rules, and that if a violation occurs at the single event, the bond may be forfeited.

[~~(11)~~](12) The commission may authorize multiple sales outlets on different properties under one single event permit, provided that each site conforms to location requirements of Section 32A-7. The commission may authorize simultaneous sale and consumption hours at multiple sales outlets.

KEY: alcoholic beverages
Date of Enactment or Last Substantive Amendment: [~~May 26~~], 2010
Notice of Continuation: August 24, 2006
Authorizing, and Implemented or Interpreted Law: 32A-1-107

Capitol Preservation Board (State), Administration
R131-5
Board Review, Compensation and Incentive Award Process

NOTICE OF PROPOSED RULE

(Repeal)
DAR FILE NO.: 34074
FILED: 09/14/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R131-5 was enacted under the authority of Sections 63C-9-301 and 63C-9-401, which directs the Capitol Preservation Board to make rules to govern, administer, and regulate the executive director and staff. This rule defines the Board's review, compensation and bonus procedures for the executive director and staff. This rule is scheduled for a five-year review due 11/15/2010. The Board has determined to repeal this rule and may adopt a new rule and policy or another option in the future which would be more consistent with current Department of Human Resource Management (DHRM) rules and policies.

SUMMARY OF THE RULE OR CHANGE: This rule is not consistent with current DHRM rules and policies. The Capitol Preservation Board is considering either implementing a rule consistent with DHRM rules or another option. Therefore, the Capitol Preservation Board is repealing this rule. The rule is repealed in its entirety.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63C-9-401

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There are no aggregate anticipated cost or savings to the state budget as repealing this rule is a procedural change and is cost neutral.
♦ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government. This is a procedural change and is cost neutral.
♦ SMALL BUSINESSES: There are no anticipated cost or savings to small businesses. This is a procedural change and is cost neutral.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. This is a procedural change and is cost neutral.

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

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Repealing this rule has no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CAPITOL PRESERVATION BOARD (STATE)
ADMINISTRATION
ROOM E110 EAST BUILDING
420 N STATE ST
SALT LAKE CITY, UT 84114-2110
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov
♦ Allyson Gamble by phone at 801-537-9156, by FAX at 801-538-3221, or by Internet E-mail at agamble@utah.gov
♦ La Priel Dye by phone at 801-538-3240, by FAX at 801-538-3313, or by Internet E-mail at ldye@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/01/2010

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2010

AUTHORIZED BY: Allyson Gamble, Executive Director

R131. Capitol Preservation Board (State), Administration.
[~~R131-5. Board Review, Compensation and Incentive Award Process.~~
~~R131-5-1. Purpose.~~
~~Pursuant to Section 63C-9-401, Utah Code, which provides the Board shall appoint an executive director to assist them, this rule defines the Board's review, compensation and bonus procedure for the executive director and staff.~~

~~R131-5-2. Authority.~~
~~This rule is authorized by Subsection 63C-9-301 and 63C-9-401, Utah Code, directing the Board to make rules to govern, administer and regulate the executive director and staff.~~

~~R131-5-3. Definitions.~~
~~(1) "Board" or "CPB" means Capitol Preservation Board as provided for in Section 63-9-101, et seq., Utah Code.~~
~~(2) DHRM means the Division of Human Resource Management within the Utah Department of Administrative Services.~~

~~R131-5-4. Authority of the Board.~~
~~(1) The Board is the authorizing agent to approve, by majority vote of members present, incentive and bonus awards, and compensation amount(s) for staff as recommended by the executive director and the Budget Development and Board Operations Subcommittee.~~
~~(2) The Board shall be the sole approving authority, and shall sanction appropriate awards in accordance with these rules.~~

~~R131-5-5. Performance Review of Executive Director.~~
~~(1) The Board's Budget Development and Board Operations Subcommittee shall oversee a performance evaluation review of the executive director of the Board.~~
~~(2) This review shall be conducted by an appointed performance review panel of three members of the subcommittee and shall be comprised of one member from the executive branch, one from the house and one from the senate. The chair of the subcommittee shall designate members of the panel.~~
~~(3) Pursuant to Sections 63C-9-401 and 402, Utah Code, the panel shall review the work-plan as developed by the executive director and approved by the Board. The panel shall meet with the executive director to review the executive director's performance, to include the following:~~
~~(a) day-to-day activities and functions of the office and staff under the executive director's direction;~~
~~(b) management and oversight of ongoing construction projects under the executive director's direction;~~
~~(c) fiduciary management of funds appropriated, earned or donated to the Board for the management of the office, upkeep of Capitol Hill, and restoration or construction of projects within the responsibilities of the Board;~~
~~(d) personal and working relationships which have been developed with the members of the Board as well as groups associated with Capitol Hill;~~

(e) other assignments, functions, or responsibilities the panel finds a need to discuss.

(4) The review shall take place in a timely manner, at least annually, and prior to July 1 of each year.

R131-5-6. Performance Review of Staff.

(1) The executive director shall define performance standards for each staff person under the executive director's supervision, evaluate their performance, and make recommendations to the Budget Development and Board Operations Subcommittee. The Board shall review the recommendations and give final approval.

(2) In accordance with Section R477-10, Utah Administrative Code, the executive director shall implement the following general performance methodology for each staff employee:

(a) An employee performance plan shall be developed by August 30 of each fiscal year, or in the case of a new employee, within 60-days of the hiring-date, whichever is later;

(b) Employees shall be provided with periodic verbal and written feedback based on the standards of performance and conduct outlined in the performance plan.

(c) Each employee shall be informed concerning the actions to be taken, time frames, and the supervisor's role in providing assistance to improve performance and increase the value of service.

(3) The executive director shall implement the following performance management rating system by August 30 to be effective for the fiscal year:

TABLE

Rating	Score
Exceptional	3
Highly Successful	2.5
Successful	2
Marginal	1
Unsuccessful	0

(4) Each employee shall receive a performance evaluation effective on or before the beginning of the first pay period of each fiscal year. A new employee shall receive a performance evaluation at the end of a 6-month probationary period and again prior to the beginning of the first pay period of the fiscal year.

(5) The employee shall sign the evaluation. Signing the evaluation only means that the employee has reviewed the evaluation. Refusal to sign the evaluation shall constitute insubordination, subject to discipline.

(6) The evaluation form shall include a space for the employee's comments. Each employee shall have the right to include written comment(s) to be placed in the employee's file, to accompany the written performance evaluation as provided by the executive director. The employee may comment in writing, either in the space provided or on separately attached pages.

R131-5-7. Performance Review and Compensation.

(1) Classification, evaluation, and compensation of the executive director and staff shall be consistent with DHRM policies and procedures. The executive director shall consult with DHRM to develop recommendations for staff job-descriptions and standards.

(2) Upon receipt of the executive director's recommendations for changes in master plans, work plans, compensation, bonuses or adjustments, the Budget Development and Board Operations Subcommittee shall present its recommendations to the Board no later than its regularly scheduled September meeting.

(3) Upon the Board's approval of the Budget Development and Board Operations Subcommittee's recommendations, the executive director will prepare a final "Budget/Planning Request" to be presented to the Governor and the Legislature.

R131-5-8. Incentive Awards for the CPB Staff.

(1) The Board's executive director shall follow the provisions of DHRM's policy when granting incentive and bonus awards, as contained in R477-6-5, Utah Administrative Code; and hereby adopts and incorporates it by reference within this rule.

(2) When the executive director has approved the issuance of an incentive or bonus award, and such action has been approved by the Board, the award shall be issued within 30-days.

R131-5-9. Incentive Awards for the Executive Director of the Board.

(1) Based on particular or unusual circumstances, the Board may approve and grant the executive director incentive or bonus awards. Incentive and bonus awards are discretionary, without entitlement, and are subject to the availability of funds. The Board shall issue award(s) that accord with the following parameters:

(a) Awarded amounts may be paid either directly, or if requested by the executive director, into a 401(k) program approved by the Utah Retirement System.

(b) Individual awards shall not exceed $4,000 per occurrence and $8,000 per fiscal year.

(c) All cash incentive and bonus awards shall be subject to payroll taxes.

(2) Performance Based Incentive Award:

(a) Cash Incentive Award: The Board may grant a cash incentive award if:

(i) Exceptional effort or accomplishment is demonstrated, beyond normal job expectations over a sustained period of time.

(ii) A cash award approved by the Board shall be documented with a copy maintained in the executive director's employee file.

(b) Noncash Incentive Award: The Board may recognize its appreciation for the executive director's performance with noncash incentive awards.

(i) Individual noncash incentive awards shall not exceed a value of $50 per occurrence and $200 for each fiscal year.

(ii) Noncash incentive awards may not include cash equivalents such as gift certificates or tickets for admission.

(3) Cost-Savings Bonus: The Board may encourage increased productivity of the executive director when, through the executive director's action, cost savings are generated within a particular restoration or construction segment of the project,

(a) The Budget Development and Board Operations Subcommittee shall document the pertinent cost savings in their recommendation for the award.

~~(b) Amounts shall be for exceptional performance and circumstances, and may exceed limits stated in R477-6-5(1)(c), Utah Administrative Code, and R131-5-9-(b) when approved by the Board.~~

~~(4) Market Based Bonus:~~

~~The Board may extend a cash bonus to the executive director as an incentive for the executive director to obtain or retain an employee who possesses unusual job skills that are critical to the state and difficult to recruit in the marketplace.~~

~~(a) Retention Bonus:~~

~~The Board may pay a bonus to a current employee, to recognize usual or unique qualifications that are essential for the agency to retain.~~

~~(b) Recruitment or Signing Bonus:~~

~~The Board may pay a recruitment bonus to a qualified job candidate to convince the candidate to accept the position.~~

~~(c) Scarce Skills Bonus:~~

~~The Board may pay a bonus to a qualified job candidate that has unusual and scarce skills which are essential for the job.~~

~~(d) Relocation Bonus:~~

~~The Board may pay a bonus to a current employee, or a new employee, for relocation, including relocation to a different commuting area.~~

~~(e) Referral Bonus:~~

~~The Board may pay a bonus to an employee who refers a job applicant who is subsequently selected and completes successful employment for at least six months.~~

~~KEY: bonuses, reviews, compensation~~
~~Date of Enactment or Last Substantive Amendment: November 15, 2005~~
~~Authorizing, and Implemented or Interpreted Law: 63C-9-401~~]

Commerce, Occupational and Professional Licensing
R156-1-305
Inactive Licensure

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34073
FILED: 09/13/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division determined a change needs to be made as the result of a related rule change being made to Rule R156-3a, the Architects Licensing Act Rule, with respect to architects being able to apply for inactive licensure status. (DAR NOTE: the proposed amendment to Rule R156-3a is under DAR No. 34072 in this issue, October 1, 2010, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The license classification of architect is being added to the listing of professions that can apply for inactive licensure.

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

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Division will incur minimal costs of approximately $50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
♦ LOCAL GOVERNMENTS: The proposed amendments only apply to licensed architects. As a result, the proposed amendments do not apply to local governments.
♦ SMALL BUSINESSES: The proposed amendments only apply to licensed architects. Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendment only applies to licensed architects. The Division does not anticipate any costs or savings as a result of the proposed amendment to this rule. However, refer to related rule filing to Rule R156-3a for costs and savings affecting licensed architects.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment only applies to licensed architects. The Division does not anticipate any costs or savings as a result of the proposed amendment to this rule. However, refer to related rule filing to Rule R156-3a for costs and savings affecting licensed architects.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule filing adds architects to a list of professional licensees who may place their license on inactive status. It will result in a cost savings to licensees who are licensed in multiple states in that they won't be required to take continuing education courses except for the two years prior to reactivation. No other fiscal impact to businesses is anticipated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Dennis Meservy by phone at 801-530-6375, by FAX at 801-530-6511, or by Internet E-mail at dmeservy@utah.gov

♦ Rich Oborn by phone at 801-530-6767, by FAX at 801-530-6511, or by Internet E-mail at roborn@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/01/2010

INTERESTED PERSONS MAY ATTEND A PUBLIC THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2010

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-1. General Rule of the Division of Occupational and Professional Licensing.
R156-1-305. Inactive Licensure.

(1) In accordance with Section 58-1-305, except as provided in Subsection (2), a licensee may not apply for inactive licensure status.

(2) The following licenses issued under Title 58 that are active in good standing may be placed on inactive licensure status:

(a) advanced practice registered nurse;

(b) architect;

([~~b~~]c) audiologist;

([~~c~~]d) certified nurse midwife;

([~~d~~]e) certified public accountant emeritus;

([~~e~~]f) certified registered nurse anesthetist;

([~~f~~]g) certified court reporter;

([~~g~~]h) certified social worker;

([~~h~~]i) chiropractic physician;

([~~i~~]j) clinical social worker;

([~~j~~]k) contractor;

([~~k~~]l) deception detection examiner;

([~~l~~]m) deception detection intern;

([~~m~~]n) dental hygienist;

([~~n~~]o) dentist;

([~~o~~]p) direct-entry midwife;

([~~p~~]q) genetic counselor;

([~~q~~]r) health facility administrator;

([~~r~~]s) hearing instrument specialist;

([~~s~~]t) licensed substance abuse counselor;

([~~t~~]u) marriage and family therapist;

([~~u~~]v) naturopath/naturopathic physician;

([~~v~~]w) optometrist;

([~~w~~]x) osteopathic physician and surgeon;

([~~x~~]y) pharmacist;

([~~y~~]z) pharmacy technician;

([~~z~~]aa) physician assistant;

([~~aa~~]bb) physician and surgeon;

([~~bb~~]cc) podiatric physician;

([~~cc~~]dd) private probation provider;

([~~dd~~]ee) professional counselor;

([~~ee~~]ff) professional engineer;

([~~ff~~]gg) professional land surveyor;

([~~gg~~]hh) professional structural engineer;

([~~hh~~]ii) psychologist;

([~~ii~~]jj) radiology practical technician;

([~~jj~~]kk) radiology technologist;

([~~kk~~]ll) security personnel;

([~~ll~~]mm) speech-language pathologist; and

([~~mm~~]nn) veterinarian.

(3) Applicants for inactive licensure shall apply to the Division in writing upon forms available from the Division. Each completed application shall contain documentation of requirements for inactive licensure, shall be verified by the applicant, and shall be accompanied by the appropriate fee.

(4) If all requirements are met for inactive licensure, the Division shall place the license on inactive status.

(5) A license may remain on inactive status indefinitely except as otherwise provided in Title 58 or rules which implement Title 58.

(6) An inactive license may be activated by requesting activation in writing upon forms available from the Division. Unless otherwise provided in Title 58 or rules which implement Title 58, each reactivation application shall contain documentation that the applicant meets current renewal requirements, shall be verified by the applicant, and shall be accompanied by the appropriate fee.

(7) An inactive licensee whose license is activated during the last four months of a renewal cycle shall, upon payment of the appropriate fees, be licensed for a full renewal cycle plus the period of time remaining until the impending renewal date, rather than being required to immediately renew their activated license.

(8) A Controlled Substance license may be placed on inactive status if attached to a primary license listed in Subsection R156-1-305(2) and the primary license is placed on inactive status.

KEY: diversion programs, licensing, occupational licensing, supervision
Date of Enactment or Last Substantive Amendment: [~~July 8,~~] 2010
Notice of Continuation: March 1, 2007
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-308; 58-1-501(4)

Commerce, Occupational and Professional Licensing
R156-3a
Architect Licensing Act Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34072
FILED: 09/13/2010

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Architects Licensing Board reviewed the rule and determined a few changes need to be made.

SUMMARY OF THE RULE OR CHANGE: In Subsections R156-3a-102(6)(d) and (f), updated the referenced International Building Code from the 2006 edition to the 2009 edition. In Section R156-3a-103, capitalized the term "division". Added Section R156-3a-306 which allows a licensed architect to place his license on an inactive status. Section R156-3a-501 is renumbered to Section R156-3a-503 and administrative penalties/fine schedule was changed to a table format.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-3a-101 and Section 58-3a-303.5 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Division will incur minimal costs of approximately $50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. There may be an unknown increase in the number of licensed architects who place their license on an inactive status, but the numbers are expected to be unsubstantial. However, with a $50 inactivation fee and a $50 reinstatement fee, some additional state revenue should be generated.
♦ LOCAL GOVERNMENTS: The proposed amendments only apply to licensed architects and applicants for licensure in that classification. As a result, the proposed amendments do not apply to local governments.
♦ SMALL BUSINESSES: The proposed amendments only apply to licensed architects and applicants for licensure in that classification. Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendments only apply to licensed architects and applicants for licensure in that classification. If a licensed architect voluntarily desires to place their license on inactive status, there will be a $50 inactivation fee and a $50 reinstatement fee. However, the Division is unable to determine how many licensed architects will want to place their license on an inactive status. It should also be noted that licensed architects who place their license in an inactive status will not be required, except for the two years prior to reinstating their license, to complete continuing education requirements. This could result in an unknown financial benefit to those who are licensed as an architect in multiple states. The potential savings, for each two-year renewal period, could be up to approximately $1,200 per licensee.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed architects and applicants for licensure in that classification. If a licensed architect voluntarily desires to place their license on inactive status, there will be a $50 inactivation fee and a $50 reinstatement fee. Licensed architects who place their license in an inactive status will not be required, except for the two years prior to reinstating their license, to complete continuing education requirements. This could result in an unknown financial benefit to those who are licensed as an architect in multiple states. The potential savings, for each two-year renewal period, could be up to approximately $1,200 per licensee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule allows architects to place their license on inactive status. It will result in a cost savings to licensees who are licensed in multiple states in that they won't be required to take continuing education courses except for the two years prior to reactivation. The filing also updates a reference and renumbers and simplifies another section. No other fiscal impact to businesses is anticipated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Dennis Meservy by phone at 801-530-6375, by FAX at 801-530-6511, or by Internet E-mail at dmeservy@utah.gov
♦ Rich Oborn by phone at 801-530-6767, by FAX at 801-530-6511, or by Internet E-mail at roborn@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/01/2010

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 10/20/2010 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2010

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-3a. Architect Licensing Act Rule.
R156-3a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 3a, as used in Title 58, Chapters 1, 3a, and 22 or this rule:

(1) "ARE" means the NCARB Architectural Registration Examination.

(2) "Committee" means the IDP Committee created in Section R156-3a-201.

(3) "Complete and final" as used in Subsection 58-3a-603(1) means "complete construction plans" as defined in Subsection 58-3a-102(4).

(4) "EESA" means the Education Evaluation Services for Architects.

(5) "Employee, subordinate, associate, or drafter of an architect" as used in Subsections 58-3a-102(8), 58-3a-603(1)(b) and this rule means one or more individuals not licensed as an architect who are working for, with, or providing architectural services directly to the licensed architect under the supervision of the licensed architect.

(6) "Incidental practice" means "architecture work as is incidental to the practice of engineering" as used in Subsection 58-22-102(9) and "engineering work as is incidental to the practice of architecture" as used in Subsection 58-3a-102(6) which:

(a) can be safely and competently performed by the licensee without jeopardizing the life, health, property and welfare of the public;

(b) is secondary and substantially less in scope and magnitude when compared to the work performed or to be performed by the licensee in the licensed profession;

(c) is work in which the licensee is fully responsible for the incidental practice performed as provided in Subsection 58-3a-603(1) or Subsection 58-22-603(1);

(d) is work that affects not greater than 49 occupants as determined in Section 1004 of the [~~2006~~]2009 International Building Code;

(e) is work included on a project with a construction value not greater than 15 percent of the overall construction value for the project including all changes or additions to the contracted or agreed upon work; and

(f) shall not include work on a building or related structure in an occupancy category of III or IV as defined in Section 1604.5 of the [~~2006~~]2009 International Building Code.

(7) "Intern Development Program" or "IDP" as used in Subsection R156-3a-302(2) means a NCARB approved training program.

(8) "NAAB" means the National Architectural Accrediting Board.

(9) "NCARB" means the National Council of Architectural Registration Boards.

(10) "Program of diversified practical experience" as used in Subsection 58-3a-302(1)(e) means:

(a) current licensure in a recognized jurisdiction; or

(b) the training standards and requirements set forth in the Intern Development Program.

(11) "Recognized jurisdiction" as used in Subsections 58-3a-302(2)(d)(i) and (iii), for licensure by endorsement, means any state, district, territory of the United States, or any foreign country who issues licenses for architects, and whose licensure requirements include:

(a) a bachelors or post graduate degree in architecture or equivalent education as set forth in Subsection R156-3a-301(2);

(b) a program of diversified practical experience as set forth in Subsection R156-3a-102(10), or an equivalent training program; and

(c) passing the ARE or passing a professional architecture examination that is equivalent to the ARE.

(12) "Responsible charge" as used in Subsections 58-3a-102(7), 58-3a-302(2)(d)(iv) and 58-3a-304(6) means direct control and management by a principal over the practice of architecture by an organization.

(13) "Under the direction of the architect" as used in Subsection 58-3a-102(8), as part of the definition of "supervision of an employee, subordinate, associate, or drafter of an architect" means that the unlicensed employee, subordinate, associate, or drafter of the architect engages in the practice of architecture only on work initiated by the architect, and only under the administration, charge, control, command, authority, oversight, guidance, jurisdiction, regulation, management, and authorization of the architect.

(14) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 3a, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-3a-502.

R156-3a-103. Authority - Purpose.

This rule is adopted by the [~~d~~]Division under the authority of Subsection 58-1-106(1)(a) to enable the [~~d~~]Division to administer Title 58, Chapter 3a.

R156-3a-306. Inactive Status.

(1) The requirements for inactive licensure specified in Subsection R156-1-305(3) shall also include certification that the licensee shall not engage in the practice of architecture while the license is on inactive status except to identify the individual as an inactive licensee.

(2) A license, prior to being placed on inactive status, shall be active and in good standing.

(3) Inactive status licensees are not required to fulfill the continuing education requirement.

(4) In addition to the requirements in Subsection R156-1-305(6) to reactivate an inactive license, a licensee shall provide documentation that the licensee, within two years of the license being reactivated, completed 16 hours of continuing education.

(5) Prior to a license being reactivated, a licensee shall meet the requirements for license renewal.

R156-3a-50[~~1~~]3. Administrative Penalties[~~ - Unlawful Conduct~~].

(1) In accordance with Subsection[~~s 58-1-501, 58-1-501(1)(a) through (d), and~~] 58-3a-50[~~1~~]2, [~~unless otherwise ordered by the presiding officer, -~~]the following fine schedule shall apply to citations issued to individuals licensed under Title 58, Chapters 1 and 3a:[~~-~~

~~(1) Engaging in unlicensed practice or using any title that would cause a reasonable person to believe the user of the title is licensed under this chapter.~~

~~First Offense: $800~~

~~Second Offense: $1,600~~

~~(2) Engaging in, or representing oneself as engaged in the practice of architecture as a corporation, proprietorship, partnership, or limited liability company unless exempted from licensure.~~

~~First Offense: $800~~

~~Second Offense: $1,600~~

~~(3) Impersonating another licensee or engaging in practice under this chapter using a false or assumed name, unless permitted by law.~~

~~First Offense: $1,000~~

~~Second Offense: $2,000~~

~~(4) Knowingly employing any person to practice under this chapter who is not licensed to do so.~~

~~First Offense: $1,000~~
~~Second Offense: $2,000~~
~~(5) Knowingly permits any person to use his license except as permitted by law.~~
~~First Offense: $1,000~~
~~Second Offense: $2,000~~]

TABLE

FINE SCHEDULE

Violation	First Offense	Second Offense
58-1-501(1)(a)	$ 800.00	$1,600.00
58-1-501(1)(b)	$1,000.00	$2,000.00
58-1-501(1)(c)	$1,000.00	$2,000.00
58-1-501(1)(d)	$1,000.00	$2,000.00
58-3a-501(1)	$ 800.00	$1,600.00
58-3a-501(2)	$ 800.00	$1,600.00

([~~6~~]2) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor. If a citation is issued for a third offense, the fine is double the second offense amount, with a maximum amount not to exceed the maximum fine allowed under Subsection 58-3a-502(1)(i)[~~(iii)~~].

([~~7~~]3) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

([~~8~~]4) An investigative supervisor may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

([~~9~~]5) In all cases the presiding officer shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount based upon the evidence reviewed.

KEY: architects, licensing
Date of Enactment or Last Substantive Amendment: [~~December 8, 2009~~]2010
Notice of Continuation: April 10, 2006
Authorizing, and Implemented or Interpreted Law: 58-3a-101; 58-1-106(1)(a); 58-1-202(1)(a), 58-3a-303.5

Commerce, Occupational and Professional Licensing

R156-55e

Elevator Mechanics Licensing Rule

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 34071
FILED: 09/13/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the 2010 Legislative Session, H.B. 11 was passed which created an elevator mechanic license classification in Title 58, Chapter 55. This new rule is being proposed to clarify requirements for the new license classification. (DAR NOTE: H.B. 11 (2010) is found at Chapter 227, Laws of Utah 2010, and was effective 05/11/2010.)

SUMMARY OF THE RULE OR CHANGE: The new rule provides the following: title, definitions, authority/purpose, organization/relationship to Rule R156-1, experience and education requirements, examination requirements, temporary license requirements, renewal cycle/procedure, continuing education/standards, unprofessional conduct, and administrative penalties.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-55-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a) and Subsection 58-55-302(3)(m) and Subsection 58-55-308(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Division will incur minimal costs of approximately $75 to print the rule and distribute it once the proposed rule is made effective. Any costs incurred will be absorbed in the Division's current budget. Any additional costs to be incurred as a result of the Division now licensing elevator mechanics were covered in the fiscal note which was completed for H.B. 11.
♦ LOCAL GOVERNMENTS: The proposed rule only applies to applicants for licensure as an elevator mechanic and elevator mechanics that become a qualifier on a contractor license. As a result, the proposed rule does not apply to local governments.
♦ SMALL BUSINESSES: The proposed rule only applies to applicants for licensure as an elevator mechanic. Any cost or saving impact to either small businesses or persons other than businesses brought about by this rule comes as a result of the changes to the statute under H.B. 11. The fiscal note prepared by the Division in response to H.B. 11 should be reviewed for information regarding the legislative bill's cost and saving impact and in turn any anticipated costs or savings with respect to this clarifying rule filing. The Division estimates there to be about 250 individuals in Utah who would qualify for licensure as an elevator mechanic that will be affected by the newly enacted statutory change and the provisions of this rule. There will be an examination cost to applicants for licensure that is estimated to be approximately $72, as well as an application for licensure fee of $110, which would result in an aggregate cost of approximately $45,500.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed rule only applies to applicants for licensure as an elevator mechanic. Any cost or saving impact to either small businesses or persons other than businesses brought

about by this rule comes as a result of the changes to the statute under H.B. 11. The fiscal note prepared by the Division in response to H.B. 11 should be reviewed for information regarding the legislative bill's cost and saving impact and in turn any anticipated costs or savings with respect to this clarifying rule filing. The Division estimates there to be about 250 individuals in Utah who would qualify for licensure as an elevator mechanic that will be affected by the newly enacted statutory change and the provisions of this rule. There will be an examination cost to applicants for licensure that is estimated to be approximately $72, as well as an application for licensure fee of $110, which would result in an aggregate cost of approximately $45,500.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed rule only applies to applicants for licensure as an elevator mechanic. Any cost or saving impact to either small businesses or persons other than businesses brought about by this rule change comes as a result of the changes to the statute under H.B. 11. The fiscal note prepared by the Division in response to H.B. 11 should be reviewed for information regarding the legislative bill's cost and saving impact and in turn any anticipated costs or savings with respect to this clarifying rule filing. The Division estimates there to be about 250 individuals in Utah who would qualify for licensure as an elevator mechanic that will be affected by the newly enacted statutory change and the provisions of this rule. There will be an examination cost to applicants for licensure that is estimated to be approximately $72, as well as an application for licensure of $110. It should be noted that apprenticeship training certification is not required for licensure. However, for those applicants who obtain licensure through the certification process, the approximate cost varies from $2,000 for non-union training program to $8,500 for an union training program. Those applicants without certification are required to take a state elevator mechanic trade examination.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing implements H.B. 11 in the 2010 General Session which adopted a requirement for licensure of elevator mechanics. As indicated in the rule summary, no fiscal impact to businesses is anticipated from this rule filing beyond those already addressed in the passage of H.B. 11.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

♦ Dennis Meservy by phone at 801-530-6375, by FAX at 801-530-6511, or by Internet E-mail at dmeservy@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/01/2010

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 10/27/2010 09:00 AM, Heber Wells Bldg, 160 E 300 S, North Conference Room, first floor, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2010

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-55e. Elevator Mechanics Licensing Rule.
R156-55e-101. Title.

This rule is known as the "Elevator Mechanics Licensing Rule."

R156-55e-102. Definitions.

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

(1) "Employee", as used in Subsection 58-55-102(17) and this rule, means an individual providing labor services for compensation who has federal and state taxes withheld and worker's compensation and unemployment insurance provided by the individual's employer.

(2) "Immediate supervision", as used in Subsection 58-55-102(16) and this rule, means reasonable direction, oversight, inspection, and evaluation of the work of a person, in or out of the immediate presence of the supervising person, so as to ensure that the end result complies with the applicable standards.

(3) "Unprofessional conduct", as defined in Title 58, Chapters 1 and 55, is further defined, in accordance with Subsection 58-1-203(1), in Section R156-55e-502.

R156-55e-103. Authority - Purpose.

This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 55.

R156-55e-104. Organization - Relationship to Rule R156-1.

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

R156-55e-302a. Qualifications for Licensure - Experience and Education Requirements.

In accordance with Subsections 58-1-203(1)(b) and 58-1-301(3), the experience requirements in Subsections 58-55-302(1)(e)(v) and 58-55-302(3)(m)(i)(A) and (C) are further clarified and established below.

(1)(a) The required three years of experience and education shall mean 6,000 hours of training.

(b) An applicant may earn no more than 2,000 hours of training in any 12-month period.

(c) The required training shall be within the past ten years from the date of application for licensure.

(d) The required training shall be obtained as an employee working:

(i) under the immediate supervision of a licensed elevator contractor where licensure is required; or

(ii) under an employer meeting similar qualifications as those of a licensed elevator contractor where licensure is not required.

(e) No credit shall be given for training obtained illegally.

(2) The requirements of Subsection (1) may be met by completing a program resulting in the award of a certification from:

(a) the Canadian Elevator Industry Education Program;

(b) the National Association of Elevator Contractors Certified Elevator Technician Education Program;

(c) the National Elevator Industry Education Program; or

(d) any other program that meets the requirements of Subsection 58-55-302(3)(m)(i)(C) as determined by the Commission with the concurrence of the Division Director.

R156-55e-302b. Qualifications for Licensure - Examination Requirements.

(1) In accordance with Subsection 58-55-302(3)(m)(i)(B), an applicant for licensure as an elevator mechanical shall:

(a) pass the Utah Elevator Examination with a score of not less than 75%; or

(b) complete one of the following certification programs:

(i) the Canadian Elevator Industry Education Program;

(ii) the National Association of Elevator Contractors Certified Elevator Technician Education Program;

(iii) the National Elevator Industry Education Program; or

(iv) any other program that meets the requirements of Subsection 58-55-302(3)(m)(i)(C) as determined by the Commission with the concurrence of the Division Director.

(2) An applicant for licensure who fails the Utah Elevator Examination may retake the failed examination as follows:

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

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

R156-55e-302c. Qualifications for Licensure - Temporary License Requirements.

(1) The Division may issue a temporary license when:

(a) a licensed elevator contractor notifies the Division that the contractor cannot find a licensed elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator, which is confirmed by the Division;

(b) the contractor requests the Division to issue a temporary elevator mechanic license to an individual;

(c) the individual submits an application for temporary licensure accompanied by the appropriate application fee; and

(d) the contractor certifies that the individual has completed 3,550 hours of training that meets the requirements of Section R156-55e-302a.

(2) The expiration date of the temporary license shall be the expected duration of the shortage of licensed elevator mechanics, but shall not exceed 90 days.

(3) A temporary license may be renewed if a shortage of elevator mechanics is ongoing on the expiration date of the license, but shall not exceed 90 days.

R156-55e-303. Renewal Cycle - Procedure.

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

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

R156-55e-303a. Continuing Education - Standards.

(1) Required Hours. Pursuant to Section 58-55-303, each licensee shall complete eight hours of continuing education during each two year license term.

(2) "Approved continuing education" is defined as:

(a) elevator codes, construction, government regulations, maintenance, and new technology; and

(b) OSHA 10 or OSHA 30 safety training, or other safety training as it pertains to the elevator trade.

(3) Non-acceptable course subject matter shall include the following types of courses and other similar courses:

(a) mechanical office and business skills, such as typing, speed reading, memory improvement and report writing;

(b) physical well-being or personal development, such as personal motivation, stress management, time management, or dress for success;

(c) presentations by a supplier or a supplier representative to promote a particular product or line of products; and

(d) meetings held in conjunction with the general business of the licensee or employer.

(4) The Division may:

(a) waive the continuing education requirements for a licensee who is an instructor of an approved apprenticeship program; and

(b) waive or defer the continuing education requirements as provided in Section R156-1-308d.

(5) A continuing education course shall meet the following standards:

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

(b) Provider. The course provide shall meet the requirements of this section and shall be one of the following:

(i) a recognized accredited college or university;

(ii) a state or federal agency;

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

(iv) a commercial continuing education provider providing a program related to the elevator trade.

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

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

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

(f) Faculty. The course shall be prepared and presented by individuals who are qualified by education, training and experience.

(g) Distance learning. A course may be recognized for continuing education that is provided via internet or through home study courses provided the course verifies registration and participation in the course by means of passing a test which demonstrates that the participant has learned the material presented. Test questions shall be random for each internet participant.

(h) Documentation. The course provider shall have a competent method of registration of individuals who actually completed the course, shall maintain records of attendance that are available for review by the Division and shall provide individuals completing the course a certificate which contains the following information:

(i) the date of the course;

(ii) the name of the course provider;

(iii) the name of the instructor;

(iv) the course title;

(v) the hours of continuing education credit;

(vi) the attendee's name;

(vii) the attendee's license number; and

(viii) the signature of the course provider.

(6) On a random basis, the Division may assign monitors at no charge to attend a course for the purposes of evaluating the course and the instructor.

(7) Each licensee shall maintain adequate documentation as proof of compliance with this section, such as certificates of completion, course handouts and materials. The licensee shall retain this proof for a period of three years from the end of the renewal period for which the continuing education is due. Each licensee shall assure that the course provider has submitted the verification of attendance to the continuing education registry on behalf of the licensee as specified in Subsection (10). Alternatively, the licensee may submit the course for approval and pay any course approval fees and attendance recording fees.

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

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

(10) A course provider shall submit continuing education courses for approval to the continuing education registry and shall submit verification of attendance and completion on behalf of licensees attending and completing the program directly to the continuing education registry in the format required by the continuing education registry.

(11) The Division shall review continuing education courses which have been submitted through the continuing education registry and approve only those courses which meet the standards set forth under this section.

(12) Continuing Education Registry.

(a) The Division shall designate an entity to act as the Continuing Education Registry under this rule.

(b) The Continuing Education Registry, in consultation with the Division and the Commission, shall:

(i) through its internet site electronically receive applications from continuing education course providers and shall submit the application for course approval to the Division for review and approval of only those programs which meet the standards set forth under this section;

(ii) publish on its website listings of continuing education programs which have been approved by the Division, and which meet the standards for continuing education credit under this rule;

(iii) maintain accurate records of qualified continuing education approved;

(iv) maintain accurate records of verification of attendance and completion, by individual licensee, which the licensee may review for compliance with this rule; and

(v) make records of approved continuing education programs and attendance and completion available for audit by representatives of the Division.

(c) Fees. The Continuing Education Registry may charge a reasonable fee to continuing education providers or licensees for services provided for review and approval of continuing education programs.

R156-55e-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) failing to carry a copy of a current license at all times when performing work as an elevator mechanic; and

(2) failing to display a copy of a current license upon request to a representative of the Division or a representative of a governmental entity enforcing criminal, building, or safety codes.

R156-55e-503. Administrative Penalties.

The administrative penalties defined in Section R156-55a-503 of the Utah Construction Trades Licensing Act Rule are hereby adopted and incorporated by reference.

KEY: elevator mechanics, licensing
Date of Enactment or Last Substantive Amendment: 2010
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-55-101; 58-55-308(1)(a); 58-55-302(3)(m)

Commerce, Real Estate
R162-57a
Timeshare and Camp Resort Rules

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 34056
FILED: 09/02/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish rules that will guide the industry in complying with the registration and professional conduct provisions of Title 57, Chapter 19.

SUMMARY OF THE RULE OR CHANGE: The proposed rule includes the following sections: 1) definitions of industry terms; 2) procedures for registering a project; 3) restrictions regarding advertising; 4) procedures for renewing a project registration; 5) requirements as to disclosures that a developer must provide to a prospective purchaser; 6) standards for professional conduct; 7) procedures for obtaining and renewing a salesperson registration; 8) procedures for administrative adjudications; and 9) provisions by which a project might be exempted from registration.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 57-19-3 and Sections 57-19-5 through 57-19-26

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: This rule filing codifies procedures and requirements that the Division has had in place for some time. The existing staff and budgets are adequate to oversee and administer these rules, and no impact to the state budget is anticipated.
♦ LOCAL GOVERNMENTS: Local governments are not required to register timeshare or camp resort projects with the division. Nor do they enforce the rules or statutes governing such projects. Therefore, no fiscal impact to local governments is anticipated.
♦ SMALL BUSINESSES: Any small business that proposes to market a timeshare or camp resort project will be required to comply with these rules, which include certain fees for project and salesperson registration. These fees are specifically outlined in Title 57, Chapter 19, and no additional fees or costs are imposed on small businesses as a result of this rule filing.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Affected persons will be required to comply with these rules, which include certain fees for project and salesperson registration. These fees are specifically outlined in Title 57, Chapter 19, and no additional fees or costs are imposed on affected persons as a result of this rule filing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None beyond those contemplated by Title 57, Chapter 19.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated from this filing, which sets forth the procedures the Division has followed for some time as to the registration of timeshare and camp resort projects. No fiscal impact is anticipated, as the existing procedures are simply codified.

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:
♦ Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at jjonsson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2010

AUTHORIZED BY: Deanna Sabey, Director

R162. Commerce, Real Estate.
R162-57a. Timeshare and Camp Resort Rules.
R162-57a-1. Title and Authority.
(1) This section shall be known as the "Timeshare and Camp Resort Rules."
(2) The authority to make rules for the timeshare and camp resort industries is granted to the division director by Section 57-19-3.

R162-57a-2. Definitions.
(1) "Affiliation" means an employment or independent contractor relationship between a salesperson and a developer.
(2) "Amendment" means a change to an original registration as to information submitted pursuant to Subsection R162-57a-5(3)(j)-(y).
(3) "Annual report" means information submitted to the division in order to renew a project registration, including the following:
(a) the number of intervals, memberships, or other interests sold since the registration was issued or last renewed;
(b) the total number of intervals, memberships, or other interests sold since the date of initial registration;
(c) the number of intervals, memberships, or other interests reacquired by foreclosure or similar proceeding that had previously been reported as sold;
(d) the total number of registered but unsold intervals, memberships, or other interests as of the date of the annual report; and
(e) the total number of intervals, memberships, or other interests that have been registered.
(4) The acronym "ATR" means ARELLO Timeshare Registry, which is the online database system through which developers may register projects with the division.
(5) "Business day" means a day other than a:
(a) Saturday;

(b) Sunday; or
(c) state or federal holiday.
(6) "Common promotional plan" means a plan whereby multiple timeshare or camp resort interests, whether in the same location or not, are advertised and/or offered for disposition without the ownership of the interests being differentiated or distinguished.
(7) "Common facilities" means areas and amenities within a project to which all purchasers share an equal right of access and use.
(8) "Consolidation" means the registration of additional interests in a project for which the director has previously issued a registration.
(9) "Day" means calendar day unless specified as "business day."
(10) "Direct sales presentation" means a meeting in which a salesperson provides information about project(s) or interest(s) to one or more prospective purchasers.
(11) "Entity" means:
(a) a corporation;
(b) a limited liability company;
(c) a partnership;
(d) a company;
(e) an association;
(f) a joint venture;
(g) a business trust;
(h) a trust; or
(i) another organization.
(12) "Expired registration" means a project or salesperson registration that may not be used to market interests because the holder of the registration failed to renew it by or before the expiration date.
(13) "Marketing of interests" means implementing a common promotional plan through:
(a) print media;
(b) direct mailings;
(c) television, radio, or Internet advertising;
(d) in-person communication;
(e) sales presentations; or
(f) any other method of contacting a prospective purchaser.
(14) "Notice of defect" means a written communication from the director informing an applicant that the applicant must submit additional information to clarify, complete, or correct an application for:
(a) registration;
(b) consolidation; or
(c) renewal.
(15) "Person" means an individual or an entity.
(16) "Personal information" means data that may be used to identify or contact a prospective purchaser, including:
(a) name;
(b) home or business address;
(c) home, business, or cell telephone number; and
(d) e-mail address.
(17) "Prospective purchaser" means a person who:
(a) attends a sales presentation;
(b) communicates with a developer or salesperson in order to obtain information about a project;
(c) provides personal information to a developer or salesperson; or
(d) is solicited by a developer or salesperson through any type of marketing.
(18) "Property report" means a document that includes:
(a) disclosures required pursuant to Section 57-19-11;
(b) a cover sheet as generated and provided by the division; and
(c) a receipt generated by the division.
(19) "Public offering statement" has the same meaning as "property report."
(20) "Registration" means:
(a) as to a project, division approval of the project as being suitable for marketing of interests; and
(b) as to a salesperson, division approval for the salesperson to engage in the marketing of interests.
(21) "Reinstatement period" means a 30-day period following the expiration of registration during which a person may reinstate an expired registration by submitting all required renewal materials and paying applicable fees.
(22) The acronym "RELMS" means Real Estate License Management System, which is the online forum through which registered salespersons may submit forms and information to the division.
(23) "Renewal" means extending a registration for an additional period on or before the date the registration expires.
(24) "Supplement" means a change in the information submitted pursuant to Subsection R162-57a-5(3)(a)-(i).
(25) "Temporary permit" means authorization from the division for a developer to engage in the marketing of interests for a period not to exceed 30 days.

R162-57a-5. Project Registration.
(1) Registration required.
(a) A person may not engage in the marketing of interests unless:
(i) the project is properly registered with the division pursuant to Section 57-19 et seq. and these rules; and
(ii) each individual who will engage in marketing is registered as salesperson pursuant to Section 57-19 et seq. and these rules.
(b)(i) A project is not considered registered until the developer seeking registration obtains from the division:
(A) a complete property report, approved by the division; and
(B) an order of registration.
(ii) A salesperson is not considered registered until the individual receives a registration from the division.
(c) Absent the issuance of a property report or registration, acceptance by the division of a registration fee does not authorize a person to engage in the marketing of interests.
(2) Registration procedure. A developer shall submit all information required under Subsection (3) to the division:
(a) through the ATR; or
(b) if the developer obtains advance permission from the division, directly to the division.
(3) Required Information. A developer shall submit to the division:

(a) property report pursuant to Section 57-19-11 and Subsection R162-19-11;

(b) as to each officer, partner, director, and owner of the developer:

(i) as applicable, documentation of any disciplinary or adverse licensing action taken against a professional license held by the individual in any jurisdiction;

(ii)(A) a statement of the type and extent of any financial interest the individual has in the project; and

(B) an explanation of any options the individual may exercise to acquire additional financial interest in the project;

(iii) as applicable, court records from any criminal proceeding taken against the individual in any jurisdiction, regardless of whether the proceeding was resolved by:

(A) conviction;

(B) plea in abeyance;

(C) diversion agreement;

(D) sentence of confinement; or

(E) dismissal; and

(iv) as applicable, documentation of any bankruptcy filing by:

(A) the individual; or

(B) an entity in which the individual has held:

(I) an ownership interest; or

(II) a position as a manager, officer, or director;

(c) evidence that the developer is registered in good standing with the Utah Division of Corporations;

(d) corporate resolution naming a resident agent to act on behalf of the developer;

(e) copy of the current articles of incorporation or other instrument creating the developer entity;

(f) copy of the current bylaws of the developer entity;

(g)(i) states or jurisdictions in which the developer has filed an application for registration or similar document;

(ii) copy of the property report or other disclosure document required to be given to purchasers by any jurisdiction in which the project is registered or the developer is otherwise authorized to market interests;

(iii) full documentation of any adverse order, judgment, or decree entered in connection with the project by any regulatory authority in any jurisdiction;

(h) name of any salesperson who will market the project;

(i) name of the individual who will be responsible for directly supervising the salesperson(s) marketing the project;

(j) legal description of the property upon which the project is located;

(k) statement, generated or updated within the 30-day period preceding the date of application, of the condition of the title to the property upon which the project is located, including encumbrances;

(l)(i) copy of any instrument by which the developer acquired interest in the project; or

(ii) if the developer does not hold fee title to the property, evidence that the developer is legally entitled to use the property, as follows:

(A) if the property is situated within Utah:

(I) a title opinion from a title insurer licensed in Utah; or

(II) an opinion letter from an independent, third party attorney actively licensed in Utah;

(B) if the property is situated outside of Utah, an opinion letter from an independent, third party attorney who is actively licensed to practice in the jurisdiction where the property is situated; and

(C) if the property is located in a jurisdiction such as a foreign country where property title opinions are issued by parties other than title companies and attorneys, other evidence of title as specified and approved by the director;

(m) copy of any instrument creating a lien, easement, restriction, or other encumbrance affecting the project, including any recording data, but redacted as to the consideration paid upon acquisition of the project;

(n) statement of the zoning and other governmental regulations affecting the use of the project;

(o) existing and proposed taxes or special assessments that affect the project;

(p)(i) copies of the instruments that will be delivered to a purchaser to evidence the purchaser's interest in the project; and

(ii) copies of the contracts and other agreements that a purchaser will be required to agree to or sign;

(q) topograhic map and accompanying statement describing the general topography and physical characteristics of the project, including:

(i) terrain;

(ii) soil conditions;

(iii) flood control; and

(iv) climate;

(r) copy of any:

(i) recorded declaration of condominium;

(ii) recorded covenants, conditions, and restrictions (CCRs); and

(iii) instrument governing the project and incorporating all covenants of the grantor or lessor;

(s) copy of any plan to create an association for project owners;

(t) narrative description of the promotional plan for the disposition of the project;

(u) statement disclosing any inducement that will be offered in connection with the marketing of the project;

(v) map showing:

(i) the location of the interests and other improvements on the property;

(ii) the relation of the project to existing streets, roads, and other off-site improvements; and

(iii) the relation of the project to factors that might negatively impact the quiet enjoyment of an interest;

(w)(i) statement of improvements and amenities to be installed that have not been completed;

(ii) schedule for completion;

(iii) evidence that the developer has obtained all necessary permits; and

(iv) if the city or county in which the property is located does not require means of assurance that all improvements and amenities referred to in the application will be completed, copies of:

(A) escrow or trust agreements;

(B) performance bonds; or

(C) other documentation to evidence that adequate financing is available and arrangements have been made for the

installation of all streets, sewers, electricity, gas, water, telephone, drainage, and other improvements;

(x)(i) provisions for maintenance to both existing and planned improvements and amenities; and

(ii) estimated cost of such maintenance to purchasers;

(y) description of any corrective work that must be performed on or relating to the project before particular interests are suitable for use;

(z) completed application as required by the division; and

(aa) a nonrefundable registration fee.

(4) The director may waive production of an item required pursuant to Subsection (3) if the developer shows that the item is not necessary to fulfill the purposes of Section 56-19 et seq.

(5) Consolidation.

(a) An application for consolidation shall be prepared and submitted in the same format as an application for initial registration.

(b) Where there is no change in the information submitted by the developer for the initial registration, the documents required by Subsection (3) may be incorporated by reference to documents on file with the division.

(c) An incomplete application for consolidation shall be treated as provided in Subsection (6).

(d) New inventory added to a project through consolidation is subject to inspection by the division.

(6) Notice of defect.

(a) If an application is incomplete, or otherwise fails to comply with Section 57-19 et seq. or these rules, the director shall send a notice of defect to the developer or the developer's legal representative specifying:

(i) what additional information is required to cure the defect; and

(ii) the deadline by which the division must receive the additional information.

(b) After receipt of a notice of defect, the developer may not offer units to the public:

(i) until the defect is cured and a registration obtained; or

(ii) without obtaining a temporary permit pursuant to Section 57-19-6(3) and Subsection (8).

(c)(i) If the additional information is not received by the division by the deadline specified in the notice of defect, the director may deny the registration.

(ii) An order of denial may be appealed pursuant to Section 57-19-17.

(7) Standards for approval.

(a) The director may not approve an application for registration of a project unless:

(i) the documents submitted pursuant to Subsection (3) meet the requirements of Section 57-19 et seq. and these rules; and

(ii) the developer demonstrates the ability to convey or cause to be conveyed the interests offered for disposition.

(b) The division may not issue a project registration to a developer that has an officer, partner, director, or owner who has:

(i) been prosecuted for a felony that resulted in a:

(A) conviction within the five-year period preceding the date of application;

(B) plea agreement within the five-year period preceding the date of application; or

(C) jail or prison release date falling within the five-year period preceding the date of application; or

(ii) been prosecuted for a misdemeanor involving fraud, misrepresentation, theft, or dishonesty that resulted in a:

(A) conviction within the three-year period preceding the date of application; or

(B) jail or prison release date falling within the three-year period preceding the date of application.

(c) If the director determines that a registration application and supporting documentation meet the criteria for registration, the division shall issue:

(i) an order of registration designating the form of the property report that the developer is required to provide to a prospective purchaser pursuant to Section 57-19-11;

(ii) a property report cover sheet, which the developer shall attach to the property report as its first page; and

(iii) a receipt for property report, which the developer shall attach to the property report as its last page.

(8) Temporary permit.

(a) To apply for a temporary permit, a person shall:

(i) make application by submitting a written request to the director;

(ii) comply with Section 57-19-6(3); and

(iii) pay all fees required for registration.

(b) A temporary permit issued by the director is valid for a period of 30 days from the date of issue.

(c) A temporary permit may not be renewed.

(9) Notification of changes.

(a) A developer whose project is registered under Section 57-19 et seq. shall report to the division within 10 business days any change in:

(i) the developer's contact information;

(ii) the disclosures required under Section 57-19-11;

(iii) the information provided under this Subsection (3), including changes in salespersons employed or contracted to market interests in the project;

(iv)(A) the bankruptcy of an entity controlled or owned by the developer that engages in the marketing of interests; and

(B) if the developer is an individual, the filing of a personal bankruptcy;

(v) the suspension, revocation, surrender, cancellation, or denial or a professional license or professional registration issued to the developer, whether the license or registration is issued by this state or another jurisdiction;

(vi) the entry of a cease and desist order, a temporary or permanent injunction, or a regulatory action:

(A) against the developer by a court or a government agency; and

(B) based on:

(I) conduct or a practice involving the marketing of interests; or

(II) conduct involving fraud, misrepresentation, or deceit; and

(vii) a judicial proceeding instituted by a purchaser against the developer and arising out of or relating to:

(A) the advertising or sale of an interest;

(B) disclosures required under Section 57-19-11;

(C) rescission rights;

(D) fraud; or
(E) misrepresentation of interests represented by the registration.
(b) If a deadline for notification falls on a day when the division is closed for business, the deadline shall be extended to the next business day.
(10) Amendment and supplement to initial registration.
(a) To submit an amendment to a registration, a developer shall:
(i) complete an amendment filing through the ATR; or
(ii) obtain prior permission from the division to submit the information by mail.
(b) To submit a supplement to a registration, a developer shall:
(i) complete a courtesy filing through the ATR; or
(ii) obtain prior permission from the division to submit the information by mail.

R162-57a-8. Restrictions on Proposed Advertising.
(1) Advertising that promotes gifts and other awards in connection with attending a sales presentation shall:
(a) disclose any conditions precedent to the receipt of the gift or other award; and
(b) if receipt of a specific advertised gift or other award is not guaranteed by virtue of attendance at the sales presentation, state the odds of any attendee's chance of receiving the gift or other award.
(2) A substitute gift, inducement, or award:
(a) shall be equal in value or use to the gift, inducement, or award that was originally promised; and
(b) may not burden the recipient with additional travel expense in order to receive the value of the gift, inducement, or award.

R162-57a-9. Renewal and Reinstatement of Project Registration.
(1) Project registration renewal. To renew a registration of a project, a person shall submit to the division, no later than the expiration date set forth on the order of registration:
(a) an annual report;
(b)(i) an updated property report, with changes underlined in red; or
(ii) a statement that no changes have occurred in the property report that is on record with the division;
(c) a description of any change in the information provided in the application for registration;
(d) documentation of any judicial proceeding or regulatory investigation instituted by complaint of a purchaser against the developer and arising out of or relating to:
(i) the advertising or sale of an interest;
(ii) disclosures required under Section 57-19-11;
(iii) rescission rights;
(iv) fraud; or
(v) misrepresentation of interests represented by the registration; and
(e) a nonrefundable renewal fee.
(2) Reinstatement.
(a) To reinstate an expired project registration, a person shall submit to the division, no later than 30 calendar days following the expiration of the registration:
(i) all materials required for a timely renewal; and
(ii) a nonrefundable late fee.
(b) A registration that is expired more than 30 days may not be renewed or reinstated. To obtain a registration, a person shall apply as a new applicant.

R162-57a-11. Disclosure Required.
(1) The disclosures required by Section 57-19-11 and submitted to the division as part of the application for project registration shall be:
(a)(i) reproduced on good quality white paper 8-1/2 by 11 inches in size;
(ii) typed in a font no smaller than 10-point type, except that financial statements or other statistical or tabular matter may be set in type as small as 8-point type; and
(iii) organized into reasonably short paragraphs or sections with appropriate captions or headings to identify each paragraph or section; or
(b) if acceptable to the director, approved by another state.
(2)(a) Upon approving the developer's disclosures, the division shall supply to the developer:
(i) a cover sheet, which the developer shall use as the first page of the property report; and
(ii) a receipt for property report, which the developer shall use as the last page of property report.
(b) The developer shall provide a copy of the complete property report, reproduced in a manner that allows all text to remain visible and legible, not obscured by shading or watermarks, to each prospective purchaser:
(i) at the beginning of a direct sales presentation; or
(ii) if the prospective purchaser does not attend a direct sales presentation, at the same time the developer obtains the prospective purchaser's personal information.

R162-57a-13. Unprofessional Conduct.
(1) Developer.
(a) Affirmative duties. A developer or an individual designated by the developer shall:
(i) actively supervise project salesperson(s) to ensure compliance with Section 57-19 et seq. and these rules;
(ii) provide the complete property report to each prospective purchaser;
(iii) obtain a signed receipt for property report from a prospective purchaser prior to:
(A) executing a purchase agreement; or
(B) receiving any item of value toward the purchase of an interest; and
(iv) clearly inform a purchaser of the purchaser's right to rescind the agreement if, during the rescission period mandated by Section 57-19-12, the purchaser contacts:
(A) the developer;
(B) a subsidiary of the developer; or

(C) a person affiliated with the developer or a subsidiary of the developer.

(b) Prohibited conduct. A developer is subject to discipline if the developer or an affiliated person:

(i) makes a misrepresentation or material omission in a document submitted to the division; or

(ii) fails to comply with an order of the division.

(2) Salesperson. A salesperson shall comply with:

(a) Section 57-19 et seq.;

(b) these rules; and

(c) this Subsection (1)(a)(ii)-(iv).

R162-57a-15. Application for Registration of Project Sales Persons.

(1) An individual applying for registration as a project salesperson shall provide the following information to the division:

(a) identifying information, including:

(i) full legal name;

(ii) date of birth; and

(iii) social security number;

(b) contact information, including:

(i) home address;

(ii) home telephone and cell telephone numbers;

(iii) mailing address;

(iv) e-mail address;

(v) sales office location and e-mail address;

(vi) sales office telephone number; and

(vii) name of developer or an individual designated by the developer who will supervise the applicant pursuant to Subsection R162-19-13(1)(a).

(c)(i) disclosure as to whether the individual has ever been licensed or registered in a real estate-related profession; and

(ii) documentation of any adverse regulatory action on such license or registration, including:

(A) denial;

(B) restriction, including probation;

(C) suspension;

(D) revocation; or

(E) fine;

(d) disclosure as to whether the individual has ever resigned or surrendered a real estate-related license or registration, or allowed such a license or registration to expire, while under investigation or while action was pending against the individual by a government agency;

(e) information as to any disciplinary action pending against the individual at the time of application by any real estate, professional, or occupational licensing agency;

(f) documentation of any criminal investigation proceeding against the individual at the time of application;

(g) complete documentation of any past criminal offense, including:

(i) charge(s) filed;

(ii) plea(s) entered;

(iii) case disposition; and

(iv) terms of sentencing;

(h) complete documentation of any past civil judgment entered against the person in a case brought on allegations involving fraud, misrepresentation, or deceit;

(i) completed five-year employment history form as provided by the division;

(j) affidavit stating whether the individual has ever been terminated from employment on an allegation of theft, fraud, or dishonesty; and

(k) a nonrefundable application fee.

(2) An application for registration as a project salesperson shall be signed by:

(a) the applicant; and

(b)(i) the developer with which the salesperson is affiliated; or

(ii) the developer's authorized representative pursuant to Subsection R162-19-13(1)(a).

(3) Standards for approval. The director may not issue a salesperson registration to any individual who:

(a) submits an incomplete application;

(b) has been prosecuted for a felony that resulted in a:

(i) conviction within the five-year period preceding the date of application;

(ii) plea agreement within the five-year period preceding the date of application; or

(iii) jail or prison release date falling within the five-year period preceding the date of application; or

(c) has been prosecuted for a misdemeanor involving fraud, misrepresentation, theft, or dishonesty that resulted in a:

(i) conviction within the three-year period preceding the date of application; or

(ii) jail or prison release date falling within the three-year period preceding the date of application.

(4) Notification of changes.

(a) A registered salesperson shall inform the division within ten days of:

(i) any change in the individual's legal name;

(ii) any change in the individual's contact information pursuant to Subsection (1)(b);

(iii) as to a criminal offense, whether prosecuted in Utah or in another jurisdiction:

(A) a conviction;

(B) the entry of a plea in abeyance;

(C) a diversion agreement; or

(D) any other agreement under which a criminal charge is held in suspense for a period of time.

(b) To notify the division of a name change, an individual shall:

(i) complete and submit a paper change form; and

(ii) attach to the form official documentation such as a:

(A) marriage license;

(B) divorce decree;

(C) driver license; or

(D) court order.

(c) To notify the division of a change in contact information, an individual shall submit a change form:

(i) by mail or fax, until such time as RELMS is configured to accommodate timeshare salespersons; and

(ii) through RELMS, once the system is configured to accommodate timeshare salespersons.

(d) To notify the division of proceedings in a criminal case, an individual shall:

(i) send to the division a cover letter explaining the circumstances under which charges were brought; and
(ii) attach all available documentation, including:
(A) charging documents;
(B) police reports; and
(C) court dockets.
(5) Renewal and reinstatement.
(a) A salesperson registration expires two years following the date the registration is approved by the division.
(b) To renew a salesperson registration, an individual shall submit to the division, no later than the date on which the individual's registration expires:
(i) a completed renewal application as required by the division; and
(ii) a nonrefundable fee.
(c) To reinstate an expired salesperson registration, and individual shall submit to the division, no later than 30 days following the date on which the individual's registration expires:
(i) all materials required for a timely renewal; and
(ii) a nonrefundable late fee.
(d) An application that is expired more than 30 days may not be renewed. To obtain a registration, an individual shall apply as a new applicant.

R162-57a-17. Administrative Procedures.
The following matters shall be decided by the director through an informal adjudicative proceeding, with no hearing permitted:
(1) issuance of an initial registration;
(2) renewal or reinstatement of an existing registration;
(3) denial of any application for registration; and
(4) a request:
(a) to amend a property report;
(b) for consolidation of a registration;
(c) for waiver of, or exemption from, registration requirements; and
(d) for a temporary permit pending registration with the division.

R162-57a-26. Exemptions.
(1) The following sales are essentially noncommercial and, therefore, exempt from the requirements of Section 57-19, et seq. by operation of law:
(a) the bulk sale of interests by a developer to another person who will become the developer of the project;
(b) after a project has been sold out and its registration with the division has expired, the resale of interests that are foreclosed by the developer or the developer's successor-in-interest, so long as:
(i) no more than ten interests in the project are foreclosed and resold over the life of the project; and
(ii) the foreclosed interests are not offered with interests in other projects as part of a common promotional plan;
(c) the resale by a lender of foreclosed interests, so long as the lender does not foreclose more than ten interests in the project over the life of the project;
(d) the sale, to a person who has previously purchased an interest in a project, of additional interests in the same project, provided that the person is timely provided with a valid property report at the time of the original purchase; and
(e) the sale of a purchaser's individual interest on a for-sale-by-owner basis.
(2)(a) A person who believes a sale not specifically delineated in Subsection (1) is essentially non-commercial shall apply to the division for an order of exemption.
(b) An exemption granted under this Subsection (2)(a) is valid for a period of one year and expires unless renewed through reapplication.

KEY: timeshare, camp resort, registration, professional conduct
Date of Enactment or Last Substantive Amendment: 2010
Authorizing, and Implemented or Interpreted Law: 57-19-3, 57-19-5 through 57-19-26

Education, Administration
R277-503
Licensing Routes

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34087
FILED: 09/15/2010

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide updated language and processes. Additionally, in the past, conditional licenses were granted to candidates who did not pass Board approved exams for licenses. Deans of Education and Local Education Agencies (LEAs) have requested this practice be eliminated.

SUMMARY OF THE RULE OR CHANGE: The amended rule provides updated definitions, changes to licensing eligibility procedures, changes to licensing routes processes, and changes to endorsement route processes.

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

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The changes update language and procedures to make the rule consistent with new terminology and improved procedures.
♦ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. The changes update language and processes for individuals seeking educator licensing through the state.

♦ SMALL BUSINESSES: There are no anticipated costs or savings to small businesses. The amendments to the rule apply to educator licensing through the state and do not impact small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities. Individuals are required to meet the requirements of the rule to obtain educator licenses issued by the state but costs have not changed due to the amendments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Although the amended rule changes processes for obtaining Utah educator licenses, there are no increased costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

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

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2010

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

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R277. Education, Administration.
R277-503. Licensing Routes.
R277-503-1. Definitions.

A. "Alternative Routes to Licensure (ARL) advisors" mean a USOE specialist with specific professional development and educator licensing expertise, and a USOE-designated curriculum specialist.

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

C. "Competency-based" means a teacher training approach structured for an individual to master and demonstrate content and teaching skills and knowledge at the individual's own pace and sometimes in alternative settings.

D. "Educational Testing Service (ETS)" is a worldwide educational testing and measurement organization.

E. "Endorsement" means a qualification based on content area mastery obtained through a higher education major or minor or through a state-approved endorsement program.

F. "Letter of authorization" means a formal approval given to an individual such as an out-of-state candidate or a first year ARL candidate who is employed by a school district/charter school in a position requiring a professional educator license who has not completed the requirements for an ARL license or a Level 1, 2, or 3 license or who has not completed necessary endorsement requirements.[~~ A teacher working under a letter of authorization cannot be designated highly qualified under R277-520-1G.~~]

G. "Level 1 license" means a Utah professional educator license issued upon completion of an approved preparation program or an alternative preparation program, or pursuant to an agreement under the NASDTEC Interstate Contract, to applicants who have also met all ancillary requirements established by law or rule.

H. "Level 2 license" means a Utah professional educator license issued after satisfaction of all requirements for a Level 1 license and:

(1) requirements established by law or rule;

(2) three years of successful education experience within a five-year period; and

(3) satisfaction of requirements under R277-522 for teachers [~~employed after January 1, 2003~~]whose employment as a Level 1 licensed educator began after January 1, 2003 in a Utah public or accredited private school.

I. "Level 3 license" means a Utah professional educator license issued to an educator who holds a current Utah Level 2 license and has also received National Board Certification or a doctorate in education or in a field related to a content area in a unit of the public education system or an accredited private school, or holds a Speech-Language Pathology area of concentration and has obtained American Speech-Language Hearing Association (AHSA) certification.

J. "National Association of State Directors of Teacher Education and Certification (NASDTEC)" is an educator information clearinghouse that maintains an interstate reciprocity agreement and database for its members regarding educators whose licenses have been suspended or revoked.

K. "National Council for Accreditation of Teacher Education (NCATE)" is a nationally recognized organization which accredits the education units providing baccalaureate and graduate degree programs for the preparation of teachers and other professional personnel for elementary and secondary schools.

L. "NCLB core academic subject" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

M. "Pedagogical knowledge" means practices and strategies of teaching, classroom management, preparation and planning that go beyond an educator's content knowledge of an academic discipline.

[~~N. "Praxis II - Principles of Learning and Teaching" is a standards-based test provided by ETS and designed to assess a beginning teacher's pedagogical knowledge. This test is used by many states as part of their teacher licensing process. Colleges and universities may use this test as an exit exam from teacher education programs. All Utah Level 1 license holders employed or reemployed after January 1, 2003 shall pass this test prior to the~~

~~issuance of a Level 2 professional educator license consistent with R277-522-1H(3).~~

~~O~~]N. "Regional accreditation" means formal approval of a school that has met standards considered to be essential for the operation of a quality school program by the following organizations:

(1) Middle States Commission on Higher Education;

(2) New England Association of Schools and Colleges;

(3) North Central Association Commission on Accreditation and School Improvement;

(4) Northwest Accreditation Commission[~~on Colleges and Universities~~];

(5) Southern Association of Colleges and Schools; and

(6) Western Association of Schools and colleges: Senior College Commission.

[~~P~~]Q. "Restricted endorsement" means a qualification based on content area knowledge obtained through a USOE-approved program of study or test and shall be available only to teachers in necessarily existent small school settings[~~ and teachers in youth in custody programs~~].

[~~Q~~]P. "State-approved Endorsement Plan (SAEP)" means a plan in place developed between the USOE and a licensed educator to direct the completion of endorsement requirements by the educator.

[~~R~~]Q. "Teacher Education Accreditation Council (TEAC)" is a nationally recognized organization which provides accreditation of professional teacher education programs in institutions offering baccalaureate and graduate degrees for the preparation of K-12 teachers.

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

R277-503-2. Authority and Purpose.

A. This rule is authorized by Article X, Section 3 of the Utah Constitution, which places general control and supervision of the public schools under the Board, Section 53A-1-402(1)(a) which directs the Board to establish rules and minimum standards for the qualification and licensing of educators and ancillary personnel who provide direct student services, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to provide minimum eligibility requirements for applicants for teacher licenses and to provide explanation and criteria of various teacher licensing routes. The rule also provides criteria and procedures for licensed teachers to earn endorsements and the requirement for all applicants for licenses to have and pass criminal background checks.

R277-503-3. USOE Licensing Eligibility.

A. Traditional college/university license - A license applicant shall:

(1) have completed an approved college/university teacher preparation program,

(2) have been recommended for licensing, and

(3) [~~shall~~]have satisfied all other requirements for educator licensing required by law; or

B. Alternative Licensing Route

(1) A license applicant shall have a bachelors degree or higher from an accredited higher education institution in an area related to the position he seeks; and

(2) A license applicant shall have skills, talents or abilities, as evaluated by the employing entity, making the applicant appropriate for a licensed teaching position and eligible to participate in an ARL program.

(3) While beginning an alternative licensing program, an applicant shall be approved for employment under a letter of authorization for a maximum of one school year and may be employed under an ARL license for an additional two years. An ARL program may not exceed three school years.[~~ ARL candidates who receive ARL licensure status may be designated highly qualified under R277-520-1G.~~]

C. All license applicants seeking a Level 1 Utah educator license or an area of concentration or an endorsement in an NCLB core academic subject area after March 3, 2007 shall submit passing score(s) on a rigorous Board-designated content test, where tests are available, prior to the issuance of a renewable license or endorsement.

[~~(1) Early childhood (K-3) and elementary majors (1-8) are required to submit a passing score from a rigorous Board-designated content test.~~

~~(2)~~]D. For each endorsement in an NCLB core academic area to be posted on the license, [~~S~~]secondary teachers are required to submit passing scores on a rigorous Board-designated content test(s), where test(s) are available[~~, for each endorsement NCLB core academic area to be posted on the license~~].

[~~(3)~~]E. An applicant shall submit electronic or original documentation of[~~ USOE-designated~~] passing score(s) on a rigorous Board-designated content test to the USOE.

[~~D~~]F. [~~Any educator seeking a Utah Level 1 license~~]A licensure candidate that has completed a Utah university/college teacher preparation program prior to January 1, 2011 who submits a score below the final Utah state passing score on the test designated in R277-503-3C shall be issued a nonrenewable conditional Level 1 license. If the educator fails to submit a passing score on a rigorous Board-designated content test during the three-year duration of the conditional Level 1 license, the educator's license or endorsement shall lapse on the educator's designated renewal date.

[~~E. The credentials and documentation of experience of applicants for Level 2 and 3 professional educator licenses shall be evaluated by the USOE to determine the appropriate license level.~~]G. Any licensure candidate, except those described in R277-503-3F, recommended for a Utah Level 1 license after January 1, 2011 who does not submit a passing score on the test designated in R277-503-3C shall not be eligible for licensure until achieving a passing score.

R277-503-4. Licensing Routes.

Applicants who seek Utah educator licenses shall successfully complete accredited programs or legislatively mandated programs consistent with this rule.

A. Institution of higher education teacher preparation programs shall be:

(1) Nationally accredited by:

(a) NCATE; or

(b) TEAC; [~~or~~]and

(2) [~~Regionally accredited competency-based teacher preparation programs as provided under R277-503-1N~~]As of January 1, 2012, approved by USOE to recommend for licensure in the license area or endorsements or both in designated areas.

B. USOE Alternative Routes to Licensure (ARL)

(1) To be eligible to begin the ARL program, an applicant for an elementary or early childhood school position shall have a bachelors degree and at least 27 semester hours of applicable content courses distributed among elementary curriculum areas. Elementary curriculum areas are provided under R277-700-4. To proceed from temporary license status, an ARL applicant shall submit a score on [~~the ETS Praxis II Elementary Education Content Knowledge Examination (0014)~~]a Board-designated content test to be used as a diagnostic tool and as part of the development of a professional plan and the issuance of the ARL license.

(2) To be eligible to begin the ARL program, applicants for secondary school positions shall hold a degree major or major equivalent directly related to the assignment. To proceed from temporary license status an ARL license applicant shall submit a score on [~~identified ETS Praxis II Applicable Content Knowledge test(s)~~]a Board-designated content test, where available, to be used as a diagnostic tool and as part of the development of a professional plan and the issuance of the ARL license.

(3) Licensing by Agreement

(a) An individual employed by a school district shall satisfy the minimum requirements of R277-503-3 as a teacher with appropriate skills, training or ability for an identified licensed teaching position in the district.

(b) An applicant shall obtain an ARL application for licensing from the USOE or USOE web site.

(c) After evaluation of candidate transcript(s)[~~,~~] and rigorous Board-designated content test score, the USOE ARL advisors and the candidate shall determine the specific content knowledge and pedagogical knowledge required of the license applicant to satisfy the requirements for licensing.

(d) The USOE ARL advisors may identify institution of higher education courses, district [~~inservice classes~~]sponsored coursework, Board-approved [~~training~~]professional development, or Board-approved competency tests to prepare or indicate content, content-specific, and developmentally-appropriate pedagogical knowledge required for licensing.

(e) An applicant who has been employed as a full-time instructional paraeducator may offer that experience in lieu of one or more pedagogy courses as follows:

([~~1~~]i) The applicant has had at least three years of paraeducator experience;

([~~2~~]ii) The applicant's experience has been successful based on documentation from the school/school district; and

([~~3~~]iii) The USOE has approved the applicant's experience in lieu of pedagogy course(s).

(f) The employing school district shall assign a trained mentor to work with the applicant for licensing by agreement.

(g) The school district shall supervise and assess the license applicant's classroom performance during a minimum one school year full-time employment experience. The district may request assistance from an institution of higher education or the USOE in the monitoring and assessment.

(h) The school district shall assess the license applicant's disposition as a teacher following a minimum one school year full-time teaching experience. The district may request assistance in this assessment; and

(i) The USOE ARL advisors shall annually review and evaluate the license applicant following training, assessments or course work, and the full-time teaching experience and evaluation by the school district.

(j) Consistent with evidence and documentation received, the USOE ARL advisor may recommend the license applicant to the Board for a Level 1 educator license.

(4) USOE Licensing by Competency

(a) A school district/charter school employs an individual as a teacher with appropriate skills, training or ability for an identified licensed teaching position in the district who satisfies the minimum requirements of R277-503-3.

(b) An employing school district/charter school, in consultation with the applicant and the USOE, shall identify Board-approved content knowledge and pedagogical knowledge examinations. The applicant shall pass designated examinations demonstrating the applicant's adequate preparation and readiness for licensing.

(c) The employing school district/charter school shall assign a trained mentor to work with the applicant for licensing by competency.

(d) The school district/charter school shall monitor and assess the license applicant's classroom performance during a minimum one-year full-time teaching experience.

(e) The school district/charter school shall assess the license applicant's disposition for teaching following a minimum one-year full-time teaching experience.

(f) The school district/charter school may request assistance in the monitoring or assessment of a license applicant's classroom performance or disposition for teaching.

(g) Following the one-year training period, the school district and USOE shall verify all aspects of preparation (content knowledge, pedagogical knowledge, classroom performance skills, and disposition for teaching) to the USOE.

(h) If all evidence/documentation is complete, the USOE shall recommend the applicant for a Level 1 educator license.

(5) USOE ARL candidates under R277-503-4B(3) and (4) may teach under a letter of authorization for a maximum of one year. The letter of authorization shall expire after the first year on June 30 when the ARL candidate submits documentation of progress in the program, and the candidate shall be issued an ARL license.

(6) The ARL license may be extended annually for two subsequent school years with documentation of progress in the ARL program.

(7) Documentation shall include, specifically, a copy of the supervisor's successful end-of-year evaluation, copies of transcripts and test results or both showing completion of required coursework, verification of working with a trained mentor, and satisfaction of the full-time full year experience.

C. School district/charter school specific competency-based licenses:

(1) A local board/charter school board may apply to the Board for a school district/charter school specific license to fill a position in the school district/charter school. The application shall demonstrate that other licensing routes for the applicant are untenable or unreasonable.

(2) The employing school district/charter school shall request a school district/charter school specific license no later than 60 days after the date of the individual's first day of employment.

(3) The application for the school district/charter school specific license from the local board/charter school board for an individual to teach one or more core academic subjects shall provide documentation of:

(a) the individual's bachelors degree; and

(b) for a K-6 grade teacher, the satisfactory results of the rigorous state test including subject knowledge and teaching skills in the required core academic subjects under Section 53A-6-104.5(3)(ii) as approved by the Board; or

(c) for the teacher in grades 7-12, demonstration of a high level of competency in each of the core academic subjects in which the teacher teaches by completion of an academic major, a graduate degree, course work equivalent to an undergraduate academic major, advanced certification or credentialing, or results or scores of a rigorous state core academic subject test, similar to the test required under R277-503-3E, in each of the core academic subjects in which the teacher teaches.

(4) The application for the school district/charter school specific license from the local board/charter school board for non-core teachers in grades K-12 shall provide documentation of:

(a) a bachelors degree, associates degree or skill certification; and

(b) skills, talents or abilities specific to the teaching assignment, as determined by the local board/charter school board.

(5) Following receipt of documentation and consistent with Section 53A-6-104.5(2), the USOE shall approve a district/charter school specific competency-based license.

(6) If an individual with a district/charter school specific competency-based license leaves the district before the end of the employment period, the district shall notify the USOE Licensing Section regarding the end-of-employment date.

(7) The individual's district/charter school specific competency-based license shall be valid only in the district/charter school that originally requested the letter of authorization and for the individual originally employed under the letter of authorization or district/charter school specific competency-based license.

(8) The written copy of the district/charter school specific competency-based license shall prominently state the name of the school district/charter school followed by DISTRICT/CHARTER SCHOOL SPECIFIC COMPETENCY-BASED LICENSE.

(9) A school district/charter school may change the assignment of a school district/charter school specific competency-based license holder but notice to USOE shall be required and additional competency-based documentation may be required for the teacher to remain qualified[~~ or highly qualified~~].

(10) School district/charter school specific competency-based license holders are at-will employees consistent with Section 53A-8-106(5).

(11) If an individual holds a Utah license, the application shall be subject to additional USOE review based upon the following criteria:

(a) license level;

(b) current license status;

(c) area of concentration and endorsements on Utah license; and

(d) circumstances justifying the school district/charter school specific license.

(12) If the application is not approved based on a USOE review of the criteria provided in R277-503-4C(11), appropriate licensure procedures shall be recommended to the requesting district/charter school. The applicant may be required to renew an expired license, apply for an endorsement, pass appropriate Board approved tests consistent with R277-503-3C, obtain an additional area of concentration, apply to Alternative Route to Licensure, or satisfy other reasonable standards.

R277-503-5. Endorsement Routes.

A. An applicant shall successfully complete one of the following for endorsement:

(1) a USOE-approved institution of higher education educator preparation program with endorsement(s); or

(2) assessment, approval and recommendation by a designated and subject-appropriate USOE specialist[~~ under a SAEP~~]. The USOE shall be responsible for final recommendation and approval; or

(3) a USOE-approved Utah institution of higher education or Utah school district-sponsored endorsement program which includes content knowledge and content-specific pedagogical knowledge approved by the USOE. The university or school district shall be responsible for final review and recommendation. The USOE shall be responsible for final approval.

B. A restricted endorsement shall be available and limited to teachers in necessarily existent small schools as determined under R277-445[~~, and teachers in youth in custody programs~~]. Teacher qualifications shall include at least nine semester hours of USOE-approved university-level courses in each course taught by the teacher holding a restricted endorsement.

C. All provisions that directly affect the health and safety of students required for endorsements, such as prerequisites for drivers education teachers or coaches, shall apply to applicants seeking endorsements through all routes under this rule.

D. Prior to an individual taking courses, exams or seeking a recommendation in the ARL licensing program, the individual shall have school district/charter school and USOE authorization.

R277-503-6. Additional Provisions.

A. All programs or assessments used in applicant preparation shall meet national professional educator standards such as those developed by NCATE[~~,~~] and TEAC[~~ or competency-based regional accreditation~~].

B. All educators licensed under this rule shall also:

(1) complete the background check required under Section 53A-6-401;

(2) satisfy the professional development requirements of R277-502; and

(3) be subject to all Utah licensing requirements and professional standards.

C. An applicant may satisfy the student teaching/clinical experience requirement for licensing through successful completion of either the licensing by agreement or by competency route.

KEY: teachers, alternative licensing
Date of Enactment or Last Substantive Amendment: [~~June 23, 2009~~]2010
Notice of Continuation: March 29, 2007
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(a); 53A-1-401(3)

Education, Administration
R277-611
Certified Volunteer Instructors and Material Approval Requirements and Process for Firearm Safety in the Public Schools

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 34088
FILED: 09/15/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to provide standards and procedures for firearm safety instruction in the public schools.

SUMMARY OF THE RULE OR CHANGE: The new rule provides definitions, provides procedures for certified firearm instructors, provides procedures for school district review of firearm safety materials, provides procedures for voluntary training on public school property of adults and public education employees, and provides procedures for use of public school property for firearm safety instruction.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Subsection 53A-13-106(5)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The rule provides standards and procedures for firearm safety instruction for public schools, consistent with state law.
♦ LOCAL GOVERNMENTS: There is no anticipated costs or savings to local government. If a public school elects to have firearm safety instruction, certified instructors should volunteer and provide materials at no cost to the school.
♦ SMALL BUSINESSES: There are no anticipated costs or savings to small businesses. The rule applies to firearm safety instruction in the public schools.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There may be costs to a volunteer for providing materials to public school students. It is unknown how many public schools will choose to participate at this time so costs are very speculative.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs for affected persons. Individuals who volunteer to teach firearm safety instruction will already be certified to do so.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

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

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2010

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

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R277. Education, Administration.
R277-611. Certified Volunteer Instructors and Material Approval Requirements and Process for Firearm Safety in the Public Schools.
R277-611-1. Definitions.

A. "Certified volunteer" means an individual who volunteers to teach school district employees or students in the public schools about firearm safety. The individual shall provide documentation of training from designated training entities prior to providing firearm safety instruction to public school students or employees on public school property.

B. "Public school classrooms or auditoriums" means any classroom or auditorium in a public school identified as available and appropriate and designated by the school superintendent as available for firearm safety instruction.

C. "Firearm safety education classes" means classes or courses taught by designated individuals during the regular school day or outside of the regular school day as determined by the local board of education.

D. "LEA" means a school district, school or charter school.

R277-611-2. Authority and Purpose.

A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board, Section 53A-13-106(5) which directs the Board to make rules specific to limited areas of firearm safety instruction in the public schools, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to provide a definition of certified volunteer for purposes of providing firearm safety training in the public schools; to direct school districts and charter schools to designate a process for designated public school areas that may be used for firearm safety training for adults or students or both; and to direct a local board to have a process or committee or both for review of materials that may be used under the school district's or charter school's authority to teach firearm safety; and to provide for voluntary firearm safety training of public school district employees or school community members or both on public school property at times determined by the local board of education.

R277-611-3. Certified Volunteers and Proof of Certification of Instructors.

A. A school district or charter school may allow volunteers who have been certified by the Utah Bureau of Criminal Identification to teach firearm safety on public school property consistent with district policy and direction. A list of certified firearms instructors by county is available through the Utah Department of Public Safety.

B. Volunteers shall provide documentation of required training to the designated school administrator prior to the advertisement or notice of available training.

C. Any individual that provides or participates in training to public school age children on public school property shall have completed a fingerprint background check consistent with Section 53A-3-410 and have had the background check reviewed by appropriate school district administrators prior to instructing public school age students. A volunteer or instructor shall not be considered certified under Section 53A-13-106(5)(d) by the school district until the background check process is completed.

R277-611-4. School District Review of Firearm Safety Materials Used in Public Schools.

A. Volunteer firearm safety instructors who have been approved to provide instruction to public school-age students or public school employees shall submit materials they propose to use in their instruction or training for review by the local LEA board prior to the training.

B. The LEA shall have adequate time to review the submitted materials and shall approve or disapprove the materials in a timely manner.

C. An LEA shall use standards for review of materials that include:

(1) Age-appropriateness of materials for the LEA's audience;

(2) Neither a bias against firearms nor a bias in favor of firearms;

(3) The selection and approval of materials that would not personally enrich or benefit the volunteer instructor;

(4) Other reasonable and objective standards that apply to the review of similar instructional materials.

R277-611-5. Voluntary Training of Adults and Public Education Employees on Public School Property.

A. An LEA may allow community groups to use public school property for voluntary firearm safety training for public school employees or interested community members.

B. Community groups shall be allowed to use public school property for voluntary firearm safety training under conditions used to approve public school buildings for non-curriculum uses.

C. Availability of space and the safety of school age children and school employees shall be given the greatest consideration in the approval of requests for use of public education property for voluntary firearm safety training and instruction.

R277-611-6. Use of Public School Property for Firearm Safety Instruction.

A. LEAs may designate which classrooms or auditoriums or other appropriate public school areas may be used for firearm safety training or instruction or both.

B. LEAs shall give first priority to curriculum-related groups in allowing firearm safety instruction to be held on public school property.

C. LEAs shall give the safety of all students and community patrons the greatest consideration in allowing for firearm safety instruction or training on public school property.

D. If appropriate or necessary, at the LEA's discretion, the LEA may post notice in and around public school areas that are designated for firearm instruction and training.

E. Live ammunition shall not be brought on public school property as a part of firearm safety instruction.

KEY: firearms, instruction
Date of Enactment or Last Substantive Amendment: 2010
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-13-106(5); 53A-1-401(3)

Education, Administration
R277-700
The Elementary and Secondary School Core Curriculum

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 34089
FILED: 09/15/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to update information regarding high school requirements and testing. The Utah State Board of Education changed the graduation requirements effective beginning with the 2010-2011 school year. The Legislature recently made changes to the Utah Performance Assessment System for Students (U-PASS) testing requirements. The rule is amended to reflect current requirements.

SUMMARY OF THE RULE OR CHANGE: The amendments included revisions to definitions and to elementary, middle school, and high school education requirements.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Subsection 53A-1-402(1)(b)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There are no anticipated costs or savings to state government. The amended rule reflects current requirements which do not include additional costs.
♦ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. Instruction in public schools will be consistent with the updated requirements which do not include additional costs.
♦ SMALL BUSINESSES: There are no anticipated costs or savings to small businesses. This rule and the amendments apply to public schools.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities. Teachers will instruct students consistent with the updated requirements which do not include additional costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Teachers will instruct students consistent with the updated requirements which do not include additional costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

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

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2010

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

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R277. Education, Administration.
R277-700. The Elementary and Secondary School Core Curriculum.
R277-700-1. Definitions.

A. "Accredited" means evaluated and approved under the Standards for Accreditation of the Northwest [~~Association of Schools and Colleges~~]Accreditation Commission or the accreditation standards of the Board, available from the USOE Accreditation Specialist.

B. "Applied courses" means public school courses or classes that apply the concepts of Core subjects. Courses may be offered through Career and Technical Education or other areas of the curriculum.

C. "Basic skills course" means a subject which requires mastery of specific functions, including skills that prepare students for the future, and was identified as a course to be assessed under Section 53A-1-602.

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

E. "Career and Technical Education (CTE)" means organized educational programs or courses which directly or indirectly prepare students for employment, or for additional preparation leading to employment, in occupations, where entry requirements generally do not require a baccalaureate or advanced degree.

F. "Core Curriculum content standard" means a broad statement of what students enrolled in public schools are expected to know and be able to do at specific grade levels or following completion of identified courses.

G. "Core Curriculum criterion-referenced test (CRTs)" means a test to measure performance against a specific standard. The meaning of the scores is not tied to the performance of other students.

H. "Core Curriculum objective" means a focused description of what students enrolled in public schools are expected to know and do at the completion of instruction.

I. "Core subjects" means courses for which there is a declared set of Core curriculum objectives as approved by the Board.

J. "Demonstrated competence" means subject mastery as determined by school district standards and review. School district review may include such methods and documentation as: tests, interviews, peer evaluations, writing samples, reports or portfolios.

K. "Elementary school" for purposes of this rule means grades K-6 in whatever kind of school the grade levels exist.

L. "High school" for purposes of this rule means grades 9-12 in whatever kind of school the grade levels exist.

M. "Individualized Education Program (IEP)" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Utah Special Education Rules and Part B of the Individuals with Disabilities Education Act (IDEA).

N. "Life Skills document" means a companion document to the Core curriculum that describes the knowledge, skills, and dispositions essential for all students; the life skills training helps students transfer academic learning into a comprehensive education.

O. "Middle school" for purposes of this rule means grades 7-8 in whatever kind of school the grade levels exist.

[~~P. "Norm-referenced test" means a test where the scores are based on comparisons with a nationally representative group of students in the same grade. The meaning of the scores is tied specifically to student performance relative to the performance of the students in the norm group under very specific testing conditions.~~

~~Q~~]P. "SEOP" means student education occupation plan. An SEOP shall include:

(1) a student's education occupation plans (grades 7-12) including job placement when appropriate;

(2) all Board and local board graduation requirements;

(3) evidence of parent, student, and school representative involvement annually;

(4) attainment of approved workplace skill competencies; and

(5) identification of post secondary goals and approved sequence of courses.

[~~R~~]Q. "State Core Curriculum (Core Curriculum)" means those standards of learning that are essential for all Utah students, as well as the ideas, concepts, and skills that provide a foundation on which subsequent learning may be built, as established by the Board.

[~~S~~]R. "Supplemental courses" means public school courses that provide students with the skills to succeed in Core subject areas.

[~~T~~]S. "USOE" means the Utah State Office of Education.

[~~U~~]T. "Utah Basic Skills Competency Test (UBSCT)" means a test to be administered to Utah students beginning in the tenth grade (suspended through at least the 2011-2012 school year) to include, at a minimum, components on English, language arts, reading and mathematics. Utah students shall satisfy the requirements of the UBSCT in addition to school or district graduation requirements prior to receiving a basic high school diploma unless exempted consistent with Section 53A-1-603(5) and R277-705-11.

R277-700-2. Authority and Purpose.

A. This rule is authorized by Article X, Section 3 of the Utah Constitution, which places general control and supervision of the public schools under the Board; Section 53A-1-402(1)(b) and (c) which directs the Board to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements; Section 53A-1-402.6 which directs the Board to establish a Core Curriculum in consultation with local boards and superintendents and directs local boards to design local programs to help students master the Core Curriculum; and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify the minimum Core Curriculum requirements for the public schools, to give directions to local boards and school districts about providing the Core Curriculum for the benefit of students, and to establish responsibility for mastery of Core Curriculum requirements.

R277-700-3. Core Curriculum Standards and Objectives.

A. The Board establishes minimum course description standards and objectives for each course in the required general core, which is commonly referred to as the Core Curriculum.

B. Course descriptions for required and elective courses shall be developed cooperatively by school districts and the USOE with opportunity for public and parental participation in the development process.

C. The descriptions shall contain mastery criteria for the courses, shall stress mastery of the course material and Core objectives, standards and life skills consistent with the Core Curriculum and Life Skills document. Mastery shall be stressed rather than completion of predetermined time allotments for courses.

D. Implementation of the Core Curriculum and student assessment procedures are the responsibility of local boards of education consistent with state law.

E. This rule shall apply to students in the 2007-2008 graduating class.

R277-700-4. Elementary Education Requirements.

A. The Board shall establish a Core Curriculum for elementary schools, grades K-6.

B. Elementary School Education Core Curriculum Content Area Requirements:

(1) Grades K-2:

(a) Reading/Language Arts;

(b) Mathematics;

(c) Integrated Curriculum.

(2) Grades 3-6:

(a) Reading/Language Arts;

(b) Mathematics;

(c) Science;

(d) Social Studies;

(e) Arts:

(i) Visual Arts;

(ii) Music;

(iii) Dance;

(iv) Theatre.

(f) Health Education;

(g) Physical Education;

(h) Educational Technology;

(i) Library Media.

C. It is the responsibility of the local boards of education to provide access to the Core Curriculum to all students.

D. Student mastery of the general Core Curriculum is the responsibility of local boards of education.

E. Informal assessment should occur on a regular basis to ensure continual student progress.

F. Board-approved CRT's shall be used to assess student mastery of the following:

(1) reading;

(2) language arts;

(3) mathematics;

(4) science in elementary grades 4-6; and

(5) effectiveness of written expression in grade 6.

[~~G. Norm-referenced tests shall be given to all elementary students in grades 3 and 5.~~

~~H~~]G. Provision for remediation for all elementary students who do not achieve mastery is the responsibility of local boards of education.

R277-700-5. Middle School Education Requirements.

A. The Board shall establish a Core Curriculum for middle school education.

B. Students in grades 7-8 shall earn a minimum of 12 units of credit to be properly prepared for instruction in grades 9-12.

C. Local boards may require additional units of credit.

D. Grades 7-8 Core Curriculum Requirements and units of credit:

[~~(1) General Core (10.5 units of credit):~~

~~]~~([~~a~~]1) Language Arts (2.0 units of credit);

([~~b~~]2) Mathematics (2.0 units of credit);

([~~c~~]3) Science (1.5 units of credit);

([~~d~~]4) Social Studies (1.5 units of credit);

([~~e~~]5) The Arts (1.0 units of credit):

([~~i~~]a) Visual Arts;

([~~ii~~]b) Music;

([~~iii~~]c) Dance;

([~~iv~~]d) Theatre.

([~~f~~]6) Physical Education (1.0 units of credit);

([~~g~~]7) Health Education (0.5 units of credit);

([~~h~~]8) Career and Technical Education, Life, and Careers (1.0 units of credit)[~~;~~].

[~~(i) Educational Technology (credit optional);~~

~~(j) Library Media (integrated into subject areas).~~]E. Best practices, technology and other instructional media shall be used in middle school curricula to increase the relevance and quality of instruction.

[~~E~~]F. Board-approved CRT's shall be used to assess student mastery of the following:

(1) reading;

(2) language arts;

(3) mathematics; and

(4) science in grades 7 and 8.[

~~F. Norm-referenced tests shall be given to all middle school students in grade 8.~~]

[~~**R277-700-6. High School Requirements (Effective for Students Graduating Through the 2009-2010 School Year).**~~

~~A. The Board shall establish a Core Curriculum for students in grades 9-12.~~

~~B. Students in grades 9-12 shall earn a minimum of 15 Board-specified units of credit through course completion or through competency assessment consistent with R277-705.~~

~~C. Grades 9-12 Core Curriculum as specified:~~

~~(1) Language Arts (3.0 units of credit);~~

~~(2) Mathematics (2.0 units of credit):~~

~~(a) minimally, Elementary Algebra or Applied Mathematics I; and~~

~~(b) Geometry or Applied Mathematics II; or~~

~~(c) any Advanced Mathematics courses in sequence beyond (a) and (b);~~

~~(d) high school mathematics credit may not be earned for courses in sequence below (a).~~

~~(3) Science (2.0 units of credit from two of the four science areas):~~

~~(a) Earth Systems Science (1.0 units of credit);~~

~~(b) Biological Science (1.0 units of credit);~~

~~(c) Chemistry (1.0 units of credit);~~

~~(d) Physics (1.0 units of credit).~~

~~(4) Social Studies (2.5 units of credit):~~

~~(a) Geography for Life (0.5 units of credit);~~

~~(b) World Civilizations (0.5 units of credit);~~

~~(c) U.S. History (1.0 units of credit);~~

~~(d) U.S. Government and Citizenship (0.5 units of credit).~~

~~(5) The Arts (1.5 units of credit from any of the following performance areas):~~

~~(a) Visual Arts;~~

~~(b) Music;~~

~~(c) Dance;~~

~~(d) Theatre;~~

~~(6) Physical and Health Education (2.0 units of credit):~~

~~(a) Health (0.5 units of credit);~~

~~(b) Participation Skills (0.5 units of credit);~~

~~(c) Fitness for Life (0.5 units of credit);~~

~~(d) Individualized Lifetime Activities (0.5 units of credit) or team sport/athletic participation (maximum of 0.5 units of credit with school approval).~~

~~(7) Career and Technical Education (1.0 units of credit);~~

~~(a) Agriculture;~~

~~(b) Business;~~

~~(c) Family and Consumer Sciences;~~

~~(d) Health Science and Technology;~~

~~(e) Information Technology;~~

~~(f) Marketing;~~

~~(g) Technology and Engineering Education;~~

~~(h) Trade and Technical Education.~~

~~(8) Educational Technology:~~

~~(a) Computer Technology (0.5 units of credit for the class by this specific name only); or~~

~~(b) successful completion of Board-approved competency examination (credit may be awarded at the discretion of the school or school district).~~

~~(9) General Financial Literacy (0.5 units of credit).~~

~~(10) Library Media Skills (integrated into the subject areas).~~

~~(11) Board-approved CRT's shall be used to assess student mastery of the following subjects:~~

~~(a) reading;~~

~~(b) language arts through grade 11;~~

~~(c) mathematics as defined under R277-700-7C(2);~~

~~(d) science as defined under R277-700-7C(3); and~~

~~(e) effectiveness of written expression in grade 9.~~

~~D. Local boards shall require students to earn a minimum of 24 units of credit in grades 9-12 for high school graduation.~~

~~(1) If a local board requires students to register for more than 24 units in grades 9-12, one-third of those credits above 24 shall be in one or more of the academic areas of math, language arts, world languages, science, or social studies, as determined by the local board.~~

~~(2) Local boards may require students to earn credits for graduation that exceed minimum Board requirements.~~

~~E. Students with disabilities served by special education programs may have changes made to graduation requirements through individual IEPs to meet unique educational needs. A student's IEP shall document the nature and extent of modifications, substitutions or exemptions made to accommodate a student with disabilities.~~

]R277-700-[~~7~~]6. High School Requirements[~~(Effective for Graduating Students Beginning with the 2010-2011 School Year)~~].

A. The Board shall establish a Core Curriculum for students in grades 9-12.

B. [~~Beginning with the graduating class of 2011, s~~]Students in grades 9-12 shall earn a minimum of [~~18~~]24 [~~Board-specified~~] units of credit through course completion or through competency assessment consistent with R277-705 to graduate.

C. Grades 9-12 Core Curriculum credits from courses approved by the Board, as specified:

(1) Language Arts (4.0 units of credit):

(a) Ninth grade level (1.0 unit of credit);

(b) Tenth grade level (1.0 unit of credit);

(c) Eleventh grade level (1.0 unit of credit); and

(d) Twelfth grade level (1.0) Unit of credit) consisting of [~~A~~]applied or advanced language arts credit [~~(1.0 unit of credit)~~] from the list of Board-approved courses[~~, determined by the local board and approved by USOE,~~] using the following criteria and consistent with the student's SEOP:

(i) courses are within the field/discipline of language arts with a significant portion of instruction aligned to language arts content, principles, knowledge, and skills; and

(ii) courses provide instruction that leads to student understanding of the nature and disposition of language arts; and

(iii) courses apply the fundamental concepts and skills of language arts; and

(iv) courses provide developmentally appropriate content; and

(v) courses develop skills in reading, writing, listening, speaking, and presentation;

[~~(2) Mathematics (3.0 units of credit) met minimally through successful completion of three units of credit of mathematics including Elementary Algebra and Geometry; and mathematics in grades 9-12 selected from the Core courses or applied or supplemental courses from the list of courses determined by the local board and approved by USOE using the following criteria and consistent with the student's SEOP:~~](2) Mathematics (3.0 units of credit) met minimally through successful completion of the foundation courses, Algebra 1, Geometry, Algebra 2.

(a) Students may opt out of Algebra 2 with written parent/legal guardian request. If an opt out is requested, the third math credit shall come from the advanced and applied courses on the Board-approved mathematics list.

(b) If credit for a foundation course is earned before ninth grade, the student shall still earn 3.0 units of credit by taking other courses from the foundation, advanced and applied Board-approved mathematics list consistent with the student's SEOP and the following criteria:

(i) courses are within the field/discipline of mathematics with a significant portion of instruction aligned to mathematics content, principles, knowledge, and skills; and

(ii) courses provide instruction that leads to student understanding of the nature and disposition of mathematics; and

(iii) courses apply the fundamental concepts and skills of mathematics; and

(iv) courses provide developmentally appropriate content; and

(v) courses include the five process skills of mathematics: problem solving, reasoning, communication, connections, and representation.

(c) Students should consider taking additional credits during their senior year that align with their postsecondary career or college expectations. Students who desire a four year college degree in a science, technology, engineering or mathematics (STEM) career area should take a calculus course.

(3) Science (3.0 units of credit):

(a) at a minimum, two courses from the four science foundation areas:

(i) Earth Systems Science (1.0 units of credit);

(ii) Biological Science (1.0 units of credit);

(iii) Chemistry (1.0 units of credit);

(iv) Physics (1.0 units of credit); and

(b) one additional unit of credit from the foundation courses or the applied or advanced science list determined by the local board and approved by [~~USOE~~]Board using the following criteria and consistent with the student's SEOP:

(i) courses are within the field/discipline of science with a significant portion of instruction aligned to science content, principles, knowledge, and skills; and

(ii) courses provide instruction that leads to student understanding of the nature and disposition of science; and

(iii) courses apply the fundamental concepts and skills of science; and

(iv) courses provide developmentally appropriate content; and

(v) courses include the areas of physical, natural, or applied sciences; and

(vi) courses develop students' skills in scientific inquiry.

(4) Social Studies ([~~2.5~~]3.0 units of credit):

(a) Geography for Life (0.5 units of credit);

(b) World Civilizations (0.5 units of credit);

(c) U.S. History (1.0 units of credit);

(d) U.S. Government and Citizenship (0.5 units of credit) [~~.~~];

(e) General Financial Literacy (0.5 units of credit).

(5) The Arts (1.5 units of credit from any of the following performance areas):

(a) Visual Arts;

(b) Music;

(c) Dance;

(d) Theatre;

(6) Physical and Health Education (2.0 units of credit):

(a) Health (0.5 units of credit);

(b) Participation Skills (0.5 units of credit);

(c) Fitness for Life (0.5 units of credit);

(d) Individualized Lifetime Activities (0.5 units of credit) or team sport/athletic participation (maximum of 0.5 units of credit with school approval).

(7) Career and Technical Education (1.0 units of credit):

(a) Agriculture;

(b) Business;

(c) Family and Consumer Sciences;

(d) Health Science and Technology;

(e) Information Technology;

(f) Marketing;

(g) Technology and Engineering Education;

(h) Trade and Technical Education.

(8) Educational Technology (0.5 units of credit):

(a) Computer Technology (0.5 units of credit for the class by this specific name only); or

(b) successful completion of Board-approved competency examination (credit may be awarded at the discretion of the school or school district).

[~~(9) General Financial Literacy (0.5 units of credit).~~

~~]~~([~~10~~]9) Library Media Skills (integrated into the subject areas).

(10) Electives (6.0 units of local board-approved credit).

D. Board-approved CRT's shall be used to assess student mastery of the following subjects:

(1) reading;

(2) language arts through grade 11;

(3) mathematics as defined under R277-700-7C(2);

(4) science as defined under R277-700-7C(3); and

(5) effectiveness of written expression in grade 9.

[~~E. Local boards shall require students to earn a minimum of 24 units of credit in grades 9-12 for high school graduation.~~

~~F~~]E. Local boards may require students to earn credits for graduation that exceed minimum Board requirements.

[~~G~~]F. Elective courses offerings [~~may~~]shall be established and offered at the discretion of the local board.

[~~H~~]G. Students with disabilities served by special education programs may have changes made to graduation requirements through individual IEPs to meet unique educational needs. A student's IEP shall document the nature and extent of modifications, substitutions or exemptions made to accommodate a student with disabilities.

[~~I~~]H. The Board and USOE may review local boards' lists of approved courses for compliance with this rule.

[~~J~~]I. Graduation requirements may be modified for individual students to achieve an appropriate route to student success when such modifications:

(1) are consistent with the student's IEP or SEOP or both;

(2) are maintained in the student's file and include the parent's/guardian's signature; and

(3) maintain the integrity and rigor expected for high school graduation, as determined by the Board.

R277-700-8. Student Mastery and Assessment of Core Curriculum Standards and Objectives.

A. Student mastery of the Core Curriculum at all levels is the responsibility of local boards of education.

B. Provisions for remediation of secondary students who do not achieve mastery is the responsibility of local boards of education under Section 53A-13-104.

C. Students who are found to be deficient in basic skills through U-PASS shall receive remedial assistance according to provisions of Section 53A-1-606(1).

D. If parents object to portions of courses or courses in their entirety under provisions of law (Section 53A-13-101.2) and rule (R277-105), students and parents shall be responsible for the mastery of Core objectives to the satisfaction of the school prior to promotion to the next course or grade level.

E. Students with Disabilities:

(1) All students with disabilities served by special education programs shall demonstrate mastery of the Core Curriculum.

(2) If a student's disabling condition precludes the successful demonstration of mastery, the student's IEP team, on a case-by-case basis, may provide accommodations for or modify the mastery demonstration to accommodate the student's disability.

F. Students may demonstrate competency to satisfy course requirements consistent with R277-705-3.

G. All Utah public school students shall participate in state-mandated assessments, as required by law unless specifically exempted consistent with R277-705-11.

H. Utah public school students shall participate in the Utah Basic Skills Competency Test, as defined under R277-700-1U unless specifically exempted consistent with R277-705-11.

I. School and school districts are ultimately responsible for and shall submit all required student assessments irrespective of allegations of intentional or unintentional violations of testing security or protocol.

KEY: curricula
Date of Enactment or Last Substantive Amendment: [~~March 10, 2009~~]2010
Notice of Continuation: January 8, 2008
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(b); 53A-1-402.6; 53A-1-401(3)

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-1-5
Incorporations by Reference

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 34084
FILED: 09/15/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection 26-18-3(2)(a) requires the Medicaid program to implement policy through administrative rules. The Department, in order to draw down federal funds, must have an approved State Plan with the Centers for Medicare and Medicaid Services. This change, therefore, incorporates the most current Medicaid State Plan by reference. It also implements by rule ongoing Medicaid policy for services described in the Utah Medicaid Provider Manual, Medical Supplies Manual and List, and policy described in the hospital services provider manual. It further incorporates these manuals by reference.

SUMMARY OF THE RULE OR CHANGE: Subsection R414-1-5(2) is changed to update the incorporation of the State Plan by reference effective 10/01/2010. It also incorporates State Plan Amendments (SPAs) that become effective no later than 10/01/2010. Two SPAs that became effective during the third quarter of Calendar Year 2010, and at the time of this proposed change, include SPA 10-013-UT Quality Improvement Incentives and SPA 10-016-UT Crossover Payments. SPA 10-013-UT continues the quality incentive programs for nursing facilities in State Fiscal Year 2011, and SPA 10-016-UT removes the Medicaid payment rate of 80% for Qualified Medicare Beneficiary (QMB) only providers to comply with state budget shortfalls and required budget cuts under the 2010 General Session of the Utah Legislature. This amendment also incorporates by reference the Medical Supplies Manual and List and the hospital services provider manual, effective 10/01/2010.

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

MATERIALS INCORPORATED BY REFERENCES:

♦ Updates Utah Medicaid State Plan, published by Division of Medicaid and Health Financing, 10/01/2010

♦ Updates Utah Medicaid Provider Manual, Medical Supplies Manual and List, published by Division of Medicaid and Health Financing, 10/01/2010

♦ Updates Hospital Services Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2010

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the Medical Supplies Manual and List and in the hospital services provider manual does not create costs or savings to the Department or other state agencies.

♦ LOCAL GOVERNMENTS: There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the Medical Supplies Manual and List and in the hospital services provider manual does not create costs or savings to local governments.

♦ SMALL BUSINESSES: There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the Medical Supplies Manual and List and in the hospital services provider manual does not create costs or savings to small businesses.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the Medical Supplies Manual and List and in the hospital services provider manual does not create costs or savings to other persons or entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the Medical Supplies Manual and List and in the hospital services provider manual does not create costs or savings to a single Medicaid client or provider.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule should not have a direct fiscal impact on business. Incorporation of the State Plan by this rule assures that the Medicaid program is implemented through administrative rule.

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 11/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2010

AUTHORIZED BY: David Sundwall, MD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-1. Utah Medicaid Program.
R414-1-5. Incorporations by Reference.

(1) The Department incorporates by reference the Utah State Plan Under Title XIX of the Social Security Act Medical Assistance Program effective [~~July~~]October 1, 2010. It also incorporates by reference State Plan Amendments that become effective no later than [~~July~~]October 1, 2010.

(2) The Department incorporates by reference the Medical Supplies Manual and List described in the Utah Medicaid Provider Manual, Section 2, Medical Supplies, with its referenced attachment, Medical Supplies List, [~~July~~]October 1, 2010, as applied in Rule R414-70.

(3) The Department incorporates by reference the Hospital Services Provider Manual, with its attachments, effective [~~July~~]October 1, 2010.

KEY: Medicaid
Date of Enactment or Last Substantive Amendment: [~~August 31~~], 2010
Notice of Continuation: April 16, 2007
Authorizing, and Implemented or Interpreted Law: 23-34-2; 26-1-5; 26-18-3

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-54-3
Services

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34085
FILED: 09/15/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to incorporate by reference the Speech-Language Services Provider Manual, effective 10/01/2010.

SUMMARY OF THE RULE OR CHANGE: This change incorporates by reference the Speech-Language Services Provider Manual, effective 10/01/2010.

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

MATERIALS INCORPORATED BY REFERENCES:
♦ Updates Speech-Language Services Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2010

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no budget impact because the incorporation of ongoing Medicaid policy described in the Speech-Language Services Provider Manual does not create costs or savings to the Department or other state agencies.
♦ LOCAL GOVERNMENTS: This change does not impact local governments because they do not fund or provide speech-language services to Medicaid clients.
♦ SMALL BUSINESSES: There is no budget impact because the incorporation of ongoing Medicaid policy described in the Speech-Language Services Provider Manual does not create costs or savings to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no budget impact because the incorporation of ongoing Medicaid policy described in the Speech-Language Services Provider Manual does not create costs or savings to other persons or entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because the incorporation of ongoing Medicaid policy described in the Speech-Language Services Provider Manual does not create additional costs to a Medicaid client or a loss of revenue to a Medicaid provider.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule should not have a direct fiscal impact on business. Incorporation of this section of the Provider Manual by this rule assures that the Medicaid program is implemented through administrative rule.

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 11/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2010

AUTHORIZED BY: David Sundwall, MD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-54. Speech-Language Pathology Services.
R414-54-3. Services.

(1) Speech-language pathology services are optional.

(2) Speech-language pathology services are limited to services described in the Speech-Language Services Provider Manual, effective [~~July~~]October 1, 2010, which is incorporated by reference.

(3) The Speech-Language Services Provider Manual specifies the reasonable and appropriate amount, duration, and scope of the service sufficient to reasonably achieve its purpose.

(4) Speech-language pathology services may be provided by licensed speech-language pathologists, or speech-language pathology aides under the supervision of speech-language pathologists.

KEY: Medicaid, speech-language pathology services
Date of Enactment or Last Substantive Amendment: [~~August 31~~], 2010
Notice of Continuation: March 9, 2009
Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-59-4
Client Eligibility Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34086
FILED: 09/15/2010

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to incorporate by reference the Audiology Services Provider Manual, effective 10/01/2010.

SUMMARY OF THE RULE OR CHANGE: This change incorporates by reference the Audiology Services Provider Manual, effective 10/01/2010.

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

MATERIALS INCORPORATED BY REFERENCES:
♦ Updates Audiology Services Provider Manual, published by Division of Medicaid and Health Financing, 10/01/2010

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no budget impact because the incorporation of ongoing Medicaid policy described in the Audiology Services Provider Manual does not create costs or savings to the Department or other state agencies.
♦ LOCAL GOVERNMENTS: This change does not impact local governments because they do not fund or provide audiology services to Medicaid clients.
♦ SMALL BUSINESSES: There is no budget impact because the incorporation of ongoing Medicaid policy described in the Audiology Services Provider Manual does not create costs or savings to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no budget impact because the incorporation of ongoing Medicaid policy described in the Audiology Services Provider Manual does not create costs or savings to other persons or entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because the incorporation of ongoing Medicaid policy described in the Audiology Services Provider Manual does not create additional costs to a Medicaid client or a loss of revenue to a Medicaid provider.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule should not have a direct fiscal impact on business. Incorporation of this section of the Provider Manual by this rule assures that the Medicaid program is implemented through administrative rule.

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 11/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2010

AUTHORIZED BY: David Sundwall, MD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-59. Audiology-Hearing Services.
R414-59-4. Client Eligibility Requirements.

(1) Audiology-hearing services are available only to clients who are pregnant women or who are individuals eligible under the Early and Periodic Screening, Diagnosis and Treatment Program.

(2) An individual receiving audiology-hearing services may receive audiology services as described in the Audiology Services Provider Manual, effective [~~July~~]October 1, 2010, which is incorporated by reference.

(3) An individual receiving audiology-hearing services must meet the criteria established in the Audiology Services Provider Manual and obtain prior approval if required.

KEY: Medicaid, audiology
Date of Enactment or Last Substantive Amendment: [~~August 31~~], 2010
Notice of Continuation: November 22, 2005
Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3

Human Services, Services for People with Disabilities
R539-2
Service Coordination

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34069
FILED: 09/09/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change updates the needs assessment criteria for the Division Waiting list and make technical changes required by organizational changes within the Division.

SUMMARY OF THE RULE OR CHANGE: The waiting list needs assessment criteria have been updated to include urgency of need, household composition, parental/caregiver ability, and time on immediate or future need waiting list.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-5-102

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: This rule will be cost neutral. It changes or adds definitions for needs assessment for the waiting list, but does not increase or decrease expenditures. These changes are clarifications and will not affect the number of individuals eligible for services.
♦ LOCAL GOVERNMENTS: Local government does not provide these services and will not be affected.
♦ SMALL BUSINESSES: Small businesses could be affected. If an individual moves from the waiting list to receiving services, Division contract providers may provide supports.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The amendment makes the definitions more precise when applicants are to be evaluated by the Division for eligibility and placed or not on the waiting list. The changes in definitions will make the eligibility standards and process more understandable for applicants.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs for affected individuals.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Small businesses could be affected. If an individual moves from the waiting list to receiving services, Division contract providers, which are small businesses, may provide supports and be reimbursed.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
SERVICES FOR PEOPLE WITH DISABILITIES
195 N 1950 W
THIRD FLOOR
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Paul Day by phone at 801-538-4118, by FAX at 801-538-4279, or by Internet E-mail at pday@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 11/09/2010

AUTHORIZED BY: Alan Ormsby, Director

R539. Human Services, Services for People with Disabilities.
R539-2. Service Coordination.
R539-2-1. Purpose.

(1) The purpose of this rule is to provide standards for the Division service system, including planning, developing and managing an array of services for Persons with disabilities and their families throughout the state as required by Subsection 62A-5-103([~~1~~]2)(a).

R539-2-2. Authority.

(1) This rule establishes standards as required by Subsection 62A-5-103([~~1~~]2)(b).

R539-2-3. Definitions.

(1) Terms used in this rule are defined in Section 62A-5-101 and R539-1-3.

(2) In addition:

(a) "Quality Assurance" means the Family, Provider, and Division management's role to assure accountability in areas of fiscal operations, health, safety, and contract compliance.

(b) "Quality Improvement" means the Provider's role to evaluate and improve the internal delivery of services.

(c) "Quality Enhancement" means the Division and the Team members' role in supporting a Person to experience personal life satisfaction in accordance with the Person's preferences.

R539-2-4. Waiting List.

(1) Pursuant to Subsection 62A-5-102(3), the Division shall determine a Person's eligibility for service, followed by a determination of that Person's priority relative to others who are also eligible. [~~Each region~~]The Division shall use a standardized Needs Assessment to score and prioritize the Person's level of need. Persons with the highest scores shall receive support first. The Support Coordinator shall assess with the Person the array of services that may be needed. If funding is not immediately available, the Person shall be placed on a waiting list for support. Persons who have been determined eligible for the Division's Medicaid Waivers can choose to wait for Division Support services or seek services available through Medicaid in an approved facility.

(2) If the Person requires, and could use, support services on the day of intake, the Person has an immediate need; otherwise, the Person has a future need.

(3) A Needs Assessment Form [~~2-2~~] shall be completed for all Persons with an immediate need for support services. The Needs Assessment calculates the score of each Person by using the following criteria:

(a) severity of the disabling condition;

(b) needs of the Person and/or family;

(c) urgency of need[~~length of time on the waiting list, if applicable;~~]

(d) appropriate alternatives available; and

(e) other factors determined by the Division[~~Region~~] to reflect accurately on the Person's need:

(i) [~~family~~]household composition and size;

(ii) parental/caregiver ability[~~skills and stress of primary caregiver~~];

(iii) finances and insurances;

[~~(iv) ability to be self-directing;~~

~~]~~(iv) [~~special~~]unmet medical needs;

(v[~~i~~]) problem behaviors;

(vi[~~i~~]) protective service issues;

(vii[~~i~~]) resources/supports needed;

([~~ix~~]viii) time on immediate or future need waiting list. [~~projected deterioration issues; and~~

~~(x) time on immediate need waiting list.~~]

(4) The Division[~~Region Needs Assessment Committee~~] determines the Person's score, rank orders the scores, and enters the Person's name and score on the statewide waiting list.

(5) A Person's ranking may change if the Person's needs change or as Needs Assessments are completed for new Applicants.

(6) No age limitations apply to a Person placed on the waiting list for community living support or family support.

(7) To preserve the Medicaid Waiver and state-wide service infrastructure, exceptions may be made to the person's ranking on the waiting list when authorized by the Division Director and the Department of Health.

R539-2-5. Person-Centered Process.

(1) The Division supports Person-Centered Planning, which includes assessing, planning, implementing, and evaluating. This process shall have an individualized focus and incorporate the principles of Person-Centered Planning, self-determination, informed choice, and equity. Input from the Person and the Person's Team should guide and direct this process.

(a) The Person's Team shall work with the Person to identify goals.

(i) The Person receiving supports determines the membership of the Team, which shall include the Support Coordinator.

(ii) The Team meets at least annually within the month in which the previous meeting occurred, or more often as the Person or other members of the Team determine necessary.

(b) The Person, Provider, and Family shall assess, plan, implement, and evaluate goals and supports for which they are responsible, as agreed upon and listed on Division Form 1-16 in the planning meeting.

(c) The Team shall decide the level of detail required to describe the actions involved in the assessing, planning, implementing, and evaluating needs for the supports based on the experience and expertise of the staff providing the Person's supports. The use of the philosophical Person-Centered Planning approach shall be demonstrated and documented in the Person's file.

(d) Any interested party who believes that Person-Centered Planning is not being implemented as outlined or receives a request from the Person, should contact the Support Coordinator immediately to resolve the issue informally, and, if necessary, through the administrative hearing process outlined in R539-3-8 Notice of Agency Action and Administrative Hearings.

R539-2-6. Entry Into and Movement Within Service System.

(1) The Division shall assure that an appropriate choice of supports and Providers exist for Persons entering or moving within the support system in accordance with Subsections 62A-5-103(1) and 62A-5-103([~~1~~]2). The Division shall coordinate, approve, and oversee all out-of-home placements.

(2) Entry into Division-funded supports:

(a) Once a Person's application for waiver services is processed by the Division, the Person is referred to the local financial eligibility office.

(b) Prior to the provision of community living supports, a Person may be required to complete a medical examination and, if under the age of 18, provide a current immunization record.

(c) Admission to Division programs from a nursing facility will be coordinated by the Division[~~Region office~~] with the Person, the nursing facility social worker, the Support Coordinator, and the prospective Provider.

(d) The Division shall provide Persons with a choice of Providers by:

(i) sending Providers notice and invitation to submit offers to provide services via use of Division Form 1-6; and

(ii) assisting the Person to make an informed choice of Provider.

(e) Interested Providers may schedule and coordinate a service entry meeting that involves the Person, the Representative, Support Coordinator, and invited guests, (e.g., Developmental Center staff, school representative, and Division staff). The meeting

should be held at the prospective site of placement whenever possible.

(f) The Provider shall submit an acceptance or denial letter within ten business days of the service entry meeting to the Support Coordinator and the Person. An acceptance letter shall include a written description of the following:

(i) services to be provided;

(ii) location of the service;

(iii) name and address of the primary care physician, or other medical specialists, including, for example, neurologist or dentist, if applicable;

(iv) a training and in-service schedule for the staff to meet with the Person;

(v) proposed date services will begin; and

(vi) agreed upon rate and level of support.

(g) The physical move of the Person shall be the responsibility of the Provider who is accepting the Person.

(h) The Division shall send the Person's information to the Provider five business days prior to the move.

(3) Any Team Member may initiate a request to change Provider or Developmental Center residence by asking the Support Coordinator to arrange a meeting.

(4) If a Person requests a change of Provider, the Support Coordinator shall arrange a discharge meeting that provides a ten-business-day written notice to the Person, present Provider, and Support Coordinator.

(a) The present Provider may request the opportunity to make changes in the existing relationship to address the concerns that initiated the discharge meeting.

(b) The Region Director shall make the final decision concerning the discharge if the parties cannot come to agreement.

(5) A Provider initiated request for discharge of a Person shall require 90 calendar days prior notification to the Person and the Division.

(6) Emergency Services Management Committee (ESMC):

(a) An Emergency Services Management Committee chairperson shall be appointed by the Division Director. Membership shall include:

(i) Division Specialists;

(ii) a representative from each Region who is skilled in crisis intervention and knowledgeable of local resources;

(iii) a representative from the Developmental Center; and

(iv) others as appointed by the Division Director.

(b) The Emergency Services Management Committee shall ensure that Persons are placed in the least restrictive most appropriate living situation as per Sections 62A-5-302 through 62A-5-312 and Subsection 62A-5-402(2)(a). Exceptions to the statute requiring children under age 11 to live only in family-like environments, as per Section 62A-5-403, require Emergency Services Management Committee review and recommendation to the Division Director for final written approval.

R539-2-7. Quality Management Procedures.

(1) The Division will oversee the three distinct functional roles of quality management, which are Quality Assurance, Quality Improvement, and Quality Enhancement.

(a) Necessary quality assurances are specified by contract with the Division. The Division may work with other offices and bureaus of the Department of Human Services and the Department of Health to assure quality.

(b) Providers are responsible to develop and implement an internal quality management system, which shall:

(i) Evaluate the Provider's programs; and

(ii) Establish a system of self-correcting feedback.

(c) The implementation of the Person's Action Plan shall be designed to enhance the Person's life. The Person and Person's Team shall:

(i) Identify and document the Person's preferences;

(ii) Plan how to support the Person's life satisfaction; and

(iii) Implement the plan with supports from the Division, such as;

(A) Technical Assistance, which involves training, mentoring, consultation, and referral through Division staff.

(B) Quality Enhancement Resource Brokerage, which involves identification and compilation of community resources, including other consumers and families, and referral to and prior approval of payment for these supports.

(C) Consumer empowerment, which involves rights education, leadership training.

(D) Team and System Process Enhancement, which involves facilitation and negotiation training, community education, and consumer satisfaction surveys.

(2) The Division shall evaluate the Person's satisfaction and statistical statewide system indicators of life enhancement.

(3) Division staff shall promote enhancement of the Person's life; support improvement efforts undertaken by Providers, Persons, and families; and assure accountability.

R539-2-8. Request for New Support Coordinator.

(1) A Person may request a new Support Coordinator by submitting a written request to the Region Office Supervisor.

KEY: services, people with disabilities
Date of Enactment or Last Substantive Amendment: [~~July 11, 2006~~]2010
Notice of Continuation: August 17, 2009
Authorizing, and Implemented or Interpreted Law: 62A-5-102; 62A-5-103

Insurance, Administration
R590-253
Utah Mini-COBRA Notification Rule

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 34075
FILED: 09/14/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was adopted to provide information and forms necessary to help a person qualified for and applying for COBRA insurance receive a subsidy to help pay for the premium. This was a result of the American Recovery and Reinvestment Act (ARRA) of 2009, Section 3001(a)(7). This subsidy was no longer available as of 05/31/2010. As a result, this rule is no longer necessary.

SUMMARY OF THE RULE OR CHANGE: This rule was adopted to provide information and forms necessary to help a person qualified for and applying for COBRA insurance receive a subsidy to help pay for the premium. This was a result of the American Recovery and Reinvestment Act (ARRA) of 2009, Section 3001(a)(7). This subsidy was no longer available as of May 31, 2010. As a result, this rule is no longer necessary. Therefore, this rule is repealed it its entirety.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-201

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The repeal of this rule will not affect the workload or revenues of the department. Insurers were not required to file forms or fees with the department when the rule went into effect so no additional filings will be required with its repeal.
♦ LOCAL GOVERNMENTS: Local governments will not be affected by the repeal of this rule since it dealt solely with the relationship between the department and its health insurance licensees.
♦ SMALL BUSINESSES: Employers will be required to change their current mini-COBRA notification forms to eliminate any reference to the federal subsidy. These forms are not filed with the department. Businesses knew that this law was temporary so probably had a small supply of these forms on hand that they now will have to dispose of. There should be just a small cost in the time it takes to change the form back to the way it was before the subsidy was made available and to make any hard copies they may want to have on hand.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Insurers will need to change their notification forms to eliminate the reference to the subsidy. They knew that this would be temporary and likely have very few on hand to dispose of and replace. This will be a minor cost to them. There will be some printing and paper costs to replace their current form.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Insurers and employers will need to change their notification forms to eliminate the reference to the subsidy. They knew that this would be temporary and likely have very few on hand to dispose of and replace. This will be a minor cost to them. There will be some printing and paper costs to replace their current form. The largest financial loss will be to the consumer who has been laid off from work and will now have to pay the full COBRA premium himelf or herself now that the federal subsidies are not available.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The cost to employers will be minor as they adjust their notification forms to eliminate the reference to a premium subsidy and eliminate current forms. Whatever costs they do have will be in printing and paper.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2010

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
~~[R590-253. Utah Mini-COBRA Notification Rule.~~
~~R590-253-1. Authority.~~
~~(1) This rule is promulgated pursuant to Subsection 31A-2-201 wherein the commissioner may make rules to implement the provisions of Title 31A.~~

~~R590-253-2. Purpose and Scope.~~
~~(1) The purpose of this rule is to ensure that all persons who are eligible for health insurance continuation coverage under the American Recovery and Reinvestment Act of 2009, ARRA, Section 3001(a)(7) receive the necessary information and forms that will assist them in making a decision to elect continuation coverage of their health insurance coverage under Utah's mini-COBRA law.~~
~~(2) This rule applies to all accident and health insurers doing business in Utah that are required to provide continuation coverage pursuant to Sections 31A-22-722 and 722.5.~~

~~R590-253-3. General Instructions.~~
~~(1) An accident and health insurer shall provide the Utah mini-COBRA Continuation Coverage Election Notice for individuals eligible for Utah mini-COBRA. The notice can be downloaded from the Department's website at www.insurance.utah.gov.~~

~~(2) For individuals eligible for Utah mini-COBRA from February 17, 2009 through December 31, 2009, an accident and health insurer shall:~~

~~(a) mail the notices required by R590-253-3(1) to an individual:~~

~~(i) within seven days after being contacted by an individual or the individual's employer on or after April 6, 2009; or~~

~~(ii) no later than April 10, 2009 for an insured whose employer or the individual contacted the insurer prior to April 1, 2009; or~~

~~(b) mail the notices required by R590-253-3(1) to all employers whose coverage is subject to 31A-22-722:~~

~~(i) no later than April 10, 2009;~~

~~(ii) on the plan's anniversary renewal; and~~

~~(iii) shall include a statement of the employer's obligation on the monthly notice of premium payments.~~

~~(c) An accident and health insurer who elects to provide notification under R590-253-3(2)(b) is responsible to assure the employer has provided notification to its employees who are eligible as provided by Section 31A-22-722 and the American Recovery and Reinvestment Act of 2009, Pub. S. 111-5.~~

~~(3)(a) For individuals eligible for Utah mini-COBRA from September 1, 2008 through February 16, 2009, the notices in R590-253-3(1) shall be mailed after being contacted by an individual or the individual's employer that the individual wants to take advantage of the second election period to extend the health insurance coverage provided by the employer Section 31A-22-722.5.~~

~~(b) The notice shall be mailed:~~

~~(i) within one business day after being contacted by an individual or the individual's employer on or after April 6, 2009; or~~

~~(ii) no later than April 9, 2009 for an insured whose employer or the individual contacted the insurer prior to April 6, 2009.~~

~~R590-253-4. Penalties.~~

~~A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under 31A-2-308.~~

~~R590-253-5. Severability.~~

~~If any provision of this rule or its application to any person or circumstance is, for any reason, held to be invalid, the remainder of this rule and its application to other persons and circumstances are not affected.~~

~~KEY: mini-COBRA insurance~~
~~Date of Enactment or Last Substantive Amendment: July 1, 2009~~
~~Authorizing, and Implemented or Interpreted Law: 31A-2-201~~]

Public Safety, Highway Patrol
R714-500-6
Instrument Certification

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34070
FILED: 09/09/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule amendment is proposed due to a change in technology used to test breath samples. The previous instruments were tested and left at a location in a police station or a jail and then they did not move from that location. Within the last year the entire state transitioned to the Intoxilyzer 8000. These instruments are mobile therefore it is not required to stay in one static location. The change in wording in the rule will reflect that the instruments can be placed into service and not required to be in a "specific location". It was also recognized that some numbers were out of sequence in the same area as the proposed change. That numbering sequence will be fixed as well.

SUMMARY OF THE RULE OR CHANGE: The amendment will change the numbering in one part of the rule. It will also strike the language of "specific Location" in four subsections of the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-6a-515

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The amendment to this rule is a change of language and will not affect the rule where state budgets would be affected.
♦ LOCAL GOVERNMENTS: The amendment to this rule is a change of language and will not affect the rule where local government budgets would be affected.
♦ SMALL BUSINESSES: The amendment to this rule is a change of language and will not affect the rule where small businesses would be affected.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The amendment to this rule is a change of language and will not affect any other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no affect on budgets so there will not be a compliance cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After looking over this rule and its changes, I do not believe this change should have any fiscal impact on businesses.

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

PUBLIC SAFETY
HIGHWAY PATROL
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5994
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Steve Winward by phone at 801-284-5514, by FAX at 801-284-5527, or by Internet E-mail at swinward@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2010

AUTHORIZED BY: Lance Davenport, Commissioner

R714. Public Safety, Highway Patrol.
R714-500. Chemical Analysis Standards and Training.
R714-500-6. Instrument Certification.

A. Criteria: To be approved, each manufacturer's brand or model of instrument shall meet the following criteria:

1. The instrument shall provide accurate and consistent analysis of breath specimen for the determination of breath alcohol concentration for law enforcement purposes;

2. Breath alcohol concentration analysis of an instrument shall be based on the principle of infra-red energy absorption or any other similarly effective procedure as specified by the Department;

3. Breath specimen analyzed shall be essentially alveolar or end expiratory in composition according to the analysis method utilized;

4. Measurement of breath alcohol concentration shall be reported in grams of alcohol per 210 liters of breath;

5. The instrument shall analyze a reference sample during certification checks, following procedures outlined in R714-500-6-D;

6. Other criteria, deemed necessary by the Department, may be required to correctly and adequately evaluate the instrument as practical and reliable for law enforcement purposes.

B. Acceptance: The Department shall approve all breath alcohol concentration testing instruments employed for law enforcement evidentiary purposes.

1. The Department shall maintain an approved list of accepted instruments. Law enforcement entities shall select instruments from this list, which list shall be available for public inspection upon request from the Department, Utah Highway Patrol Training Section, 410 West 9800 South, Sandy, UT 84070.

2. A manufacturer may apply for approval of an instrument by brand or model not on the list. The Department shall subsequently examine each instrument to determine if it meets criteria specified by R714-500 and applicable purchase requisitions.

3. Upon compliance with R714-500, an instrument may be approved by brand or model and placed on the list of accepted instruments.

4. Certification Reports verifying the certification of all instruments shall be kept on file by the program supervisor and made available upon request through the Department, Utah Highway Patrol Training Section, 410 West 9800 South, Sandy, UT 84070.

C. Initial Instrument Certification: All breath alcohol concentration testing instruments used for law enforcement evidentiary purposes shall be certified prior to being placed into service.[~~at a specific location.~~]

1. The program supervisor shall determine that each individual instrument, by serial number, conforms to the brand or model that appears on the commissioner's accepted list.

2. Prior to an instrument being placed into service[~~at a specific location~~], a technician shall perform a certification check, following the standardized operating procedure and requirements outlined in R714-500-6-D.

3. Upon successful completion of these requirements, the instrument shall be deemed to be operating correctly and may be placed into service.

D. Regular Instrument Certification Checks

1. Once an instrument has been placed into service[~~at a specific location~~], it shall be certified by a technician on a routine basis, not to exceed 40 days between certification checks.

2. The program supervisor shall establish a standardized operating procedure for performing certification checks, following requirements set forth in R714-500 or by using such procedures as recommended by the manufacturer of the instrument to meet its performance specifications, as derived from:

a. electrical power check;
b. operating temperature check;
c. internal purge check;
d. invalid test procedures check;
e. diagnostic measurements check;
f. internal calibration check;
g. known reference sample check; and
h. measurements of breath alcohol concentration, displayed in grams of alcohol per 210 liters of breath.

A copy of these standard operating procedures may be made available upon request through the Department, Utah Highway Patrol Training Section, 410 West 9800 South, Sandy, UT 84070.

3. For known reference sample checks set forth in R714-500-6-D-2-g, the instrument shall analyze a reference sample, such as headspace gas from a mixture of water and a known weight or volume of ethanol held at a constant temperature or a compressed inert gas and alcohol mixture from a pressurized cylinder.

a. The result of the analysis shall agree with the reference sample's predicted value, within parameters of calibration set at plus or minus 5% or 0.005, whichever is greater, or such limits as set by the Department.

i. For example, if a known reference sample has a value of 0.100, the parameters of calibration set at plus or minus 5% would equal 0.005 (0.100 x 5 % = 0.005). Acceptable parameters of

calibration using a known 0.100 reference sample would therefore range from 0.095 to 0.105.

b. Analytical results of the known reference sample check shall be reported to three decimal places.

1. Other checks, deemed necessary by the Department or program supervisor, may be required to correctly and adequately evaluate the instrument.

2. Technicians shall follow the standardized operating procedure as set forth by the program supervisor when performing certification checks.

3.[~~4.~~] If an instrument successfully passes all the certification checks, it shall be deemed to be operating properly.

4.[~~5.~~] A report of the certification results with the serial number of the certified instrument shall be recorded on the approved Certification Report form by the technician, sent to the program supervisor, and placed in the file for certified instruments.

5.[~~6.~~] Results of certification checks shall be kept in a permanent record retained by the technician or program supervisor.

E. Instrument Repair and Recertification

1. The Department may at any time determine if a specific instrument is unreliable or unserviceable. Upon such a finding, the instrument shall be removed from service and certification withdrawn.

2. A report of the certification results showing the certification has been withdrawn shall be recorded on the approved Certification Report form by the technician, sent to the program supervisor, and placed in the file for certified instruments.

3. Upon proper repair, the instrument may be recertified and again placed into service.[~~at a specific location.~~]

a. Minimum requirements for recertification are identical to those outlined in R714-500-6-D, sub-sections 2, 3, and 4.

4. A report of the certification results with the serial number of the recertified instrument shall be recorded on the approved Certification Report form by the technician, sent to the program supervisor, and placed in the file for certified instruments.

KEY: alcohol, intoxilyzer, breath testing, operator certification
Date of Enactment or Last Substantive Amendment: [~~October 15, 2008~~]2010
Notice of Continuation: October 5, 2009
Authorizing, and Implemented or Interpreted Law: 41-6a-515; 63G-4

Tax Commission, Auditing
R865-6F-8
Allocation and Apportionment of Net Income (Uniform Division of Income for Tax Purposes Act) Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34076
FILED: 09/15/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment is necessary to implement S.B. 165 from the 2010 General Session. (DAR NOTE: S.B. 165 (2010) is found at Chapter 155, Laws of Utah 2010, and was effective 05/11/2010.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment indicates how a sales factor weighted taxpayer shall apply the single sales factor apportionment, during the phase-in period of that apportionment method, if a factor is missing.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-7-302 through 59-7-321

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: None--Any fiscal impact would have been taken into account in S.B. 165 (2010).
♦ LOCAL GOVERNMENTS: None--Any fiscal impact would have been taken into account in S.B. 165 (2010).
♦ SMALL BUSINESSES: None--Any fiscal impact would have been taken into account in S.B. 165 (2010).
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--Any fiscal impact would have been taken into account in S.B. 165 (2010).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The amendments provide guidance on using the single sales factor during the phase-in period of that apportionment method.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None anticipated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY, UT 84134-0002
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Michael Cragun by phone at 801-297-3907, by FAX at 801-297-3919, or by Internet E-mail at mcragun@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/15/2010

THIS RULE MAY BECOME EFFECTIVE ON: 11/22/2010

AUTHORIZED BY: R. Bruce Johnson, Tax Commission Chair

R865. Tax Commission, Auditing.
R865-6F. Franchise Tax.
R865-6F-8. Allocation and Apportionment of Net Income (Uniform Division of Income for Tax Purposes Act) Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321.

(1) Definitions.

(a) "Allocation" means the assignment of nonbusiness income to a particular state.

(b) "Apportionment" means the division of business income between states by the use of a formula containing apportionment factors.

(c) "Base of operations" means the place of more or less permanent nature from which the employee starts work and to which the employee customarily returns in order to receive instructions from the taxpayer or communications from customers or other persons, or to replenish stock or other materials, repair equipment, or perform any other function necessary to the exercise of his trade or profession at some other point or points.

(d) "Business activity" refers to the transactions and activities occurring in the regular course of a particular trade or business of a taxpayer, or to the acquisition, management, and disposition of property that constitute integral parts of the taxpayer's regular trade or business operations.

(e) "Business income" means income of any type or class, and from any activity, that meets the relationship described in Subsection (2)(b), the transactional test, or Subsection (2)(c), the functional test. The classification of income by the labels occasionally used, such as manufacturing income, compensation for services, sales income, interest, dividends, rents, royalties, gains, operating income, and nonoperating income is of no aid in determining whether income is business or nonbusiness income.

(f) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.

(g) "Employee" means an:

(i) officer of a corporation; or

(ii) individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee.

(h) "Gross receipts" are the gross amounts realized (the sum of money and the fair market value of other property or services received) on the sale or exchange of property, the performance of services, or the use of property or capital (including rents, royalties, interest and dividends) in a transaction that produces business income, in which the income or loss is recognized (or would be recognized if the transaction were in the United States) under the Internal Revenue Code. Amounts realized on the sale or exchange or property are not reduced for the cost of goods sold or the basis of property sold.

(i) Gross receipts, even if business income, do not include such items as, for example:

(A) repayment, maturity, or redemption of the principal of a loan, bond, or mutual fund or certificate of deposit or similar marketable instrument;

(B) the principal amount received under a repurchase agreement or other transaction properly characterized as a loan;

(C) proceeds from issuance of the taxpayer's own stock or from sale of treasury stock;

(D) damages and other amounts received as the result of litigation;

(E) property acquired by an agent on behalf of another;

(F) tax refunds and other tax benefit recoveries;

(G) pension reversions;

(H) contributions to capital (except for sales of securities by securities dealers);

(I) income from forgiveness of indebtedness; or

(J) amounts realized from exchanges of inventory that are not recognized by the Internal Revenue Code.

(ii) Exclusion of an item from the definition of "gross receipts" is not determinative of its character as business or nonbusiness income. Nothing in this definition shall be construed to modify, impair or supersede any provision of Subsection (11).

(i) "Nonbusiness income" means all income other than business income.

(j) "Place from which the service is directed or controlled" means the place from which the power to direct or control is exercised by the taxpayer.

(k) "Taxpayer" means a corporation as defined in Section 59-7-101.

(l) "To contribute materially" includes being used operationally in the taxpayer's trade or business. Whether property contributes materially is not determined by reference to the property's value or percentage of use. If an item of property contributes materially to the taxpayer's trade or business, the attributes, rights, or components of that property are also operationally used in that business. However, property that is held for mere financial betterment is not operationally used in the taxpayer's trade or business.

(m) "Trade or business" means the unitary business of the taxpayer, part of which is conducted within Utah.

(2) Business and Nonbusiness Income.

(a) Apportionment and Allocation. Section 59-7-303 requires that every item of income be classified as either business income or nonbusiness income. Income for purposes of classification as business or nonbusiness includes gains and losses. Business income is apportioned among jurisdictions by use of a formula. Nonbusiness income is specifically assigned or allocated to one or more specific jurisdictions pursuant to express rules. An item of income is classified as business income if it falls within the definition of business income. An item of income is nonbusiness income only if it does not meet the definitional requirements for being classified as business income.

(b) Transactional Test. Business income includes income arising from transactions and activity in the regular course of the taxpayer's trade or business.

(i) If the transaction or activity is in the regular course of the taxpayer's trade or business, part of which trade or business is conducted within the state, the resulting income of the transaction or activity is business income for Utah purposes. Income may be business income even though the actual transaction or activity that gives rise to the income does not occur in this state.

(ii) For a transaction or activity to be in the regular course of the taxpayer's trade or business, the transaction or activity need

not be one that frequently occurs in the trade or business. Most, but not all, frequently occurring transactions or activities will be in the regular course of that trade or business and will, therefore, satisfy the transactional test. It is sufficient to classify a transaction or activity as being in the regular course of a trade or business if it is reasonable to conclude transactions of that type are customary in the kind of trade or business being conducted, or are within the scope of what that kind of trade or business does. However, even if a taxpayer frequently or customarily engages in investment activities, if those activities are for the taxpayer's mere financial betterment rather than for the operations of the trade or business, those activities do not satisfy the transactional test. The transactional test includes income from sales of inventory, property held for sale to customers, and services commonly sold by the trade or business. The transactional test also includes income from the sale of property used in the production of business income of a kind that is sold and replaced with some regularity, even if replaced less frequently than once a year.

(c) Functional Test. Business income also includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

(i) The following definitions apply to this Subsection (2)(c).

(A) "Acquisition" means the act of obtaining an interest in property.

(B) "Disposition" means the act, or the power, of relinquishing or transferring an interest in or control over property to another, either in whole or in part.

(C) "Integral part" means property that constitutes a part of the composite whole of the trade or business, each part of which gives value to every other part, in a manner that materially contributes to the production of business income.

(D) "Management" means the oversight, direction, or control, whether directly or by delegation, of the property for the use or benefit of the trade or business.

(E) "Property" includes an interest in, control over, or use of property, whether the interest is held directly, beneficially, by contract, or otherwise, that materially contributes to the production of business income.

(ii) Under the functional test, business income need not be derived from transactions or activities that are in the regular course of the taxpayer's own particular trade or business. It is sufficient, if the property from which the income is derived is or was an integral, functional, or operative component used in the taxpayer's trade or business operations, or otherwise materially contributed to the production of business income of the trade or business, part of which trade or business is or was conducted within the state. Property that has been converted to nonbusiness use through the passage of a sufficiently lengthy period of time, generally five years, or that has been removed as an operational asset and is instead held by the taxpayer's trade or business exclusively for investment purposes, has lost its character as a business asset and is not subject to this subsection. Property that was an integral part of the trade or business is not considered converted to investment purposes merely because it is placed for sale.

(iii) Income that is derived from isolated sales, leases, assignments, licenses, and other infrequently occurring dispositions, transfers, or transactions involving property, including transactions made in liquidation or the winding-up of business, is business income if the property is or was used in the taxpayer's trade or business operations.

(A) Property that has been converted to nonbusiness use has lost its character as a business asset and is not subject to Subsection (2)(c)(iii).

(B) Income from the licensing of an intangible asset, such as a patent, copyright, trademark, service mark, know-how, trade secrets, or the like, that was developed or acquired for use by the taxpayer in its trade or business operations, constitutes business income whether or not the licensing itself constituted the operation of a trade or business, and whether or not the taxpayer remains in the same trade or business from or for which the intangible asset was developed or acquired.

(iv) Under the functional test, income from intangible property is business income when the intangible property serves an operational function as opposed to solely an investment function. The relevant inquiry focuses on whether the property is or was held in furtherance of the taxpayer's trade or business, that is, on the objective characteristics of the intangible property's use or acquisition and its relation to the taxpayer and the taxpayer's activities. The functional test is not satisfied where the holding of the property is limited to solely an investment function as is the case where the holding of the property is limited to mere financial betterment of the taxpayer in general.

(v) If the property is or was held in furtherance of the taxpayer's trade or business beyond mere financial betterment, income from that property may be business income even though the actual transaction or activity involving the property that gives rise to the income does not occur in this state.

(vi) If with respect to an item of property a taxpayer takes a deduction from business income that is apportioned to this state, or includes the original cost in the property factor, it is presumed that the item of property is or was integral to the taxpayer's trade or business operations. No presumption arises from the absence of any of these actions.

(vii) Application of the functional test is generally unaffected by the form of the property, whether tangible or intangible, real or personal. Income arising from an intangible interest, for example, corporate stock or other intangible interest in a business or a group of assets, is business income when the intangible itself or the property underlying or associated with the intangible is or was an integral, functional, or operative component of the taxpayer's trade or business operations.

(A) Property that has been converted to nonbusiness use has lost its character as a business asset and is not subject to this Subsection (2)(c)(vii).

(B) While apportionment of income derived from transactions involving intangible property as business income may be supported by a finding that the issuer of the intangible property and the taxpayer are engaged in the same trade or business, that is, the same unitary business, establishment of that relationship is not the exclusive basis for concluding that the income is subject to apportionment.

(C) It is sufficient to support the finding of apportionable income if the holding of the intangible interest served an operational rather than an investment function of mere financial betterment.

(d) Relationship of Transactional Test and Functional Tests to the United States Constitution.

(i) The due process clause and the commerce clause of the United States Constitution restrict states from apportioning income as business income that has no rational relationship with the taxing state. The protection against extra-territorial state taxation afforded by these clauses is often described as the unitary business principle. The unitary business principle requires apportionable income to be derived from the same unitary business that is being conducted as least in part in the state.

(ii) The unitary business conducted in this state includes both a unitary business that the taxpayer alone may be conducting and a unitary business the taxpayer may conduct with any other person. Satisfaction of either the transactional test or the functional test complies with the unitary business principle, because each test requires that the transaction or activity, in the case of the transactional test, or the property, in the case of the functional test, to be tied to the same trade or business that is conducted within the state. Determination of the scope of the unitary business conducted in the state is without regard to the extent to which this state requires or permits combined reporting.

(e) Business and Nonbusiness Income Application of Definitions.

(i) Rents From Real and Tangible Personal Property. Rental income from real and tangible property is business income if the property with respect to which the rental income was received is or was used in the taxpayer's trade or business and therefore is includable in the property factor under Subsection (8)(a)(i). Property that has been converted to nonbusiness use has lost its character as a business asset and is not subject to this subsection.

(ii) Gains or Losses From Sales of Assets. Gain or loss from the sale, exchange, or other disposition of real property or of tangible or intangible personal property constitutes business income if the property while owned by the taxpayer was used in, or was otherwise included in the property factor of the taxpayer's trade or business. However, if the property was utilized for the production of nonbusiness income or it was previously included in the property factor and later removed from the property factor before its sale, exchange, or other disposition, the gain or loss constitutes nonbusiness income. See Subsection (8)(a)(ii).

(iii) Interest. Interest income is business income where the intangible with respect to which the interest was received arises out of or was created in the regular course of the taxpayer's trade or business operations, or where the purpose for acquiring and holding the intangible is an integral, functional, or operative component of the taxpayer's trade or business operations, or otherwise materially contributes to the production of business income of the trade or business operations.

(iv) Dividends. Dividends are business income where the stock with respect to which the dividends were received arose out of or was acquired in the regular course of the taxpayer's trade or business operations or where the acquiring and holding of the stock is an integral, functional, or operative component of the taxpayer's trade or business operations, or otherwise materially contributes to the production of business income of the trade or business operations.

(v) Patent and Copyright Royalties. Patent and copyright royalties are business income where the patent or copyright with respect to which the royalties were received arose out of or was created in the regular course of the taxpayer's trade or business operations or where the acquiring and holding of the patent or copyright is an integral, functional, or operational component of the taxpayer's trade or business operations, or otherwise materially contributes to the production of business income of the trade or business operations.

(vi) Proration of Deductions. In most cases, an allowable deduction of a taxpayer will be applicable only to the business income arising from a particular trade or business or to a particular item of nonbusiness income. In some cases, an allowable deduction may be applicable to the business incomes of more than one trade or business or several items of nonbusiness income. In those cases, the deduction shall be prorated among those trades or businesses and those items of nonbusiness income in a manner that fairly distributes the deduction among the classes of income to which it is applicable.

(f)(i) A schedule must be submitted with the return showing the:

(A) gross income from each class of income being allocated;

(B) amount of each class of applicable expenses, together with explanation or computations showing how amounts were arrived at;

(C) total amount of the applicable expenses for each income class; and

(D) net income of each income class.

(ii) The schedule shall indicate items of income and expenses allocated both to the state and outside the state.

(g) Year to Year Consistency. In filing returns with the state, if the taxpayer departs from or modifies the manner of prorating any deduction used in returns for prior years in a material way, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

(h) State to State Consistency. If the returns or reports filed by a taxpayer with all states to which the taxpayer reports under the Uniform Division of Income for Tax Purposes Act are not uniform in the application or proration of any deduction, the taxpayer shall disclose in its return to this state the nature and extent of any material variance.

(3) Unitary Business.

(a) Unitary Business Principle.

(i) The Concept of a Unitary Business. A unitary business is a single economic enterprise that is made up of either separate parts of a single business entity or a group of business entities related through common ownership that are sufficiently interdependent, integrated and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts. This flow of value to a business entity located in this state that comes from being part of a unitary business conducted both within and without the state is what provides the constitutional due process definite link and minimum connection necessary for the state to apportion business income of the unitary business, even if that income arises in part [~~form~~]from activities conducted outside the state. The business income of the unitary business is then apportioned to this state using an apportionment

percentage provided by Section 59-7-311. This sharing or exchange of value may also be described as requiring that the operation of one part of the business be dependent upon, or contribute to, the operation of another part of the business. Phrased in the disjunctive, the foregoing means that if the activities of one business either contribute to the activities of another business or are dependent upon the activities of another business, those businesses are part of a unitary business.

(ii) Constitutional Requirement for a Unitary Business. The sharing or exchange of value described in Subsection (3)(a)(i) that defines the scope of a unitary business requires more than the mere flow of funds arising out of a passive investment or from the financial strength contributed by a distinct business undertaking that has no operational relationship to the unitary business. In this state, the unitary business principle shall be applied to the fullest extent allowed by the United States Constitution. The unitary business principle shall not be applied to result in the combination of business activities or entities under circumstances where, if it were adverse to the taxpayer, the combination of those activities or entities would not be allowed by the United States Constitution.

(iii) Separate Trades or Businesses Conducted Within a Single Entity. A single entity may have more than one unitary business. In those cases, it is necessary to determine the business, or apportionable, income attributable to each separate unitary business as well as its nonbusiness income, which is specifically allocated. The business income of each unitary business is then apportioned by a formula that takes into consideration the in-state and out-of-state factors that relate to the respective unitary business whose income is being apportioned.

(iv) Unitary Business Unaffected by Formal Business Organization. A unitary business may exist within a single business entity or among a group of business entities related through common ownership, as defined in Section 59-7-101.

(b) Determination of a Unitary Business.

(i) A unitary business is characterized by significant flows of value evidenced by factors such as those described in Mobil Oil Corp. v. Vermont, 445 US 425 (1980): functional integration, centralization of management, and economies of scale. These factors provide evidence of whether the business activities operate as an integrated whole or exhibit substantial mutual interdependence. Facts suggesting the presence of the factors mentioned above should be analyzed in combination for their cumulative effect and not in isolation. A particular characteristic of a business operation may be suggestive of one or more of the factors mentioned above.

(ii) Description and Illustration of Functional Integration, Centralization of Management, and Economies of Scale.

(A) Functional Integration. Functional integration refers to transfers between, or pooling among, business activities that significantly affect the operation of the business activities. Functional integration includes transfers or pooling with respect to the unitary business's products or services, technical information, marketing information, distribution systems, purchasing, and intangibles such as patents, trademarks, service marks, copyrights, trade secrets, know-how, formulas, and processes. There is no specific type of functional integration that must be present. The following is a list of examples of business operations that support the finding of functional integration. The order of the list does not establish a hierarchy of importance.

(I) Sales, Exchanges, or Transfers. Sales, exchanges, or transfers (collectively "sales") of products, services, and intangibles between business activities provide evidence of functional integration. The significance of the intercompany sales to the finding of functional integration will be affected by the character of what is sold and the percentage of total sales or purchases represented by the intercompany sales. For example, sales among business entities that are part of a vertically integrated unitary business are indicative of functional integration. Functional integration is not negated by the use of a readily determinable market price to [~~effect~~]affect the intercompany sales, because those sales can represent an assured market for the seller or an assured source of supply for the purchaser.

(II) Common Marketing. The sharing of common marketing features among business entities is an indication of functional integration when the marketing results in significant mutual advantage. Common marketing exists when a substantial portion of the business entities' products, services, or intangibles are distributed or sold to a common customer, when the business entities use a common trade name or other common identification, or when the business entities seek to identify themselves to their customers as a member of the same enterprise. The use of a common advertising agency or a commonly owned or controlled in-house advertising office does not by itself establish common marketing that is suggestive of functional integration. That activity, however, is relevant to determining the existence of economies of scale and centralization of management.

(III) Transfer or Pooling of Technical Information or Intellectual Property. Transfers or pooling of technical information or intellectual property, such as patents, copyrights, trademarks and service marks, trade secrets, processes or formulas, know-how, research, or development provide evidence of functional integration when the matter transferred is significant to the businesses' operations.

(IV) Common Distribution System. Use of a common distribution system by the business entities, under which inventory control and accounting, storage, trafficking, or transportation are controlled through a common network provides evidence of functional integration.

(V) Common Purchasing. Common purchasing of substantial quantities of products, services, or intangibles from the same source by the business entities, particularly where the purchasing results in significant cost savings and is significant to each entity's operations or sales, provides evidence of functional integration.

(VI) Common or Intercompany Financing. Significant common or intercompany financing, including the guarantee by, or the pledging of the credit of, one or more business entities for the benefit of another business entity or entities provides evidence of functional integration, if the financing activity serves an operational purpose of both borrower and lender. Lending that serves an investment purpose of the lender does not necessarily provide evidence of functional integration.

(B) Centralization of Management. Centralization of management exists when directors, officers, and other management employees jointly participate in the management decisions that affect the respective business activities and that may also operate to the benefit of the entire economic enterprise. Centralization of management can exist whether the centralization is effected from a

parent entity to a subsidiary entity, from a subsidiary entity to a parent entity, from one subsidiary entity to another, from one division within a single business entity to another division within a business entity, or from any combination of the foregoing. Centralization of management may exist even when day-to-day management responsibility and accountability has been decentralized, so long as the management has an ongoing operational role with respect to the business activities. An operational role may be effected through mandates, consensus building, or an overall operational strategy of the business, or any other mechanism that establishes joint management.

(I) Facts Providing Evidence of Centralization of Management. Evidence of centralization of management is provided when common officers participate in the decisions relating to the business operations of the different segments. Centralization of management may exist when management shares or applies knowledge and expertise among the parts of the business. Existence of common officers and directors, while relevant to a showing of centralization of management, does not alone provide evidence of centralization of management. Common officers are more likely to provide evidence of centralization of management than are common directors.

(II) Stewardship Distinguished. Centralized efforts to fulfill stewardship oversight are not evidence of centralization of management. Stewardship oversight consists of those activities that any owner would take to review the performance of or safeguard an investment. Stewardship oversight is distinguished from those activities that an owner may take to enhance value by integrating one or more significant operating aspects of one business activity with the other business activities of the owner. For example, implementing reporting requirements or mere approval of capital expenditures may evidence only stewardship oversight.

(C) Economies of Scale. Economies of scale refers to a relation among and between business activities resulting in a significant decrease in the average per unit cost of operational or administrative functions due to the increase in operational size. Economies of scale may exist from the inherent cost savings that arise from the presence of functional integration or centralization of management. The following are examples of business operations that support the finding of economies of scale. The order of the list does not establish a hierarchy of importance.

(I) Centralized Purchasing. Centralized purchasing designed to achieve savings due to the volume of purchases, the timing of purchases, or the interchangeability of purchased items among the parts of the business engaging in the purchasing provides evidence of economies of scale.

(II) Centralized Administrative Functions. The performance of traditional corporate administrative functions, such as legal services, payroll services, pension and other employee benefit administration, in common among the parts of the business may result in some degree of economies of scale. A business entity that secures savings in the performance of corporate administrative services due to its affiliation with other business entities that it would not otherwise reasonably be able to secure on its own because of its size, financial resources, or available market provides evidence of economies of scale.

(c) Indicators of a Unitary Business.

(i) Business activities that are in the same general line of business generally constitute a single unitary business, as for example, a multistate grocery chain.

(ii) Business activities that are part of different steps in a vertically structured business almost always constitute a single unitary business. For example, a business engaged in the exploration, development, extraction, and processing of a natural resource and the subsequent sale of a product based upon the extracted natural resource, is engaged in a single unitary business, regardless of the fact that the various steps in the process are operated substantially independently of each other with only general supervision from the business's executive offices.

(iii) Business activities that might otherwise be considered as part of more than one unitary business may constitute one unitary business when the factors outlined in Subsection (3)(b) are present. For example, some businesses conducting diverse lines of business may properly be considered as engaged in only one unitary business when the central executive officers are actively involved in the operations of the various business activities and there are centralized offices that perform for the business the normal matters a truly independent business would perform for itself, such as personnel, purchasing, advertising, or financing.

(4) Apportionment and Allocation.

(a)(i) If the business activity with respect to the trade or business of a taxpayer occurs both within and without this state, and if by reason of that business activity the taxpayer is taxable in another state, the portion of the net income (or net loss) arising from the trade or business derived from sources within this state shall be determined by apportionment in accordance with Sections 59-7-311 to 59-7-319.

(ii) For purposes of determining the fraction by which business income shall be apportioned to this state under Section 59-7-311:

(A) Except as provided in Subsection (4)(a)(ii)(B), if a taxpayer does not make an election to double weight the sales factor under Subsection 59-7-311[~~(3)~~](2)(d) and one or more of the factors listed in Subsection 59-7-311(2)[~~(a)~~](c) is missing, the fraction by which business income shall be apportioned to the state shall be determined by adding the factors present and dividing that sum by the number of factors present.

(B) If a taxpayer has made an election to double weight the sales factor under Section 59-7-311[~~(3)~~](2)(c) and if the sales factor is present, the denominator of the fraction described in Subsection (4)(a)(ii)(A) shall be increased by one.

(C) For a taxable year that begins on or after January 1, 2011, but begins on or before December 31, 2011, in the case of a sales factor weighted taxpayer, if one or more of the factors listed in Subsection 59-7-311(3)(a)(i) is missing and if the sales factor is present, the fraction by which business income shall be apportioned to the state shall be determined by adding the factors as provided in Subsection 59-7-311(3)(a)(i), and dividing that sum by the denominator, indicated in Subsection 59-7-311(3)(a)(ii), reduced by the number of missing factors.

(D) For a taxable year that begins on or after January 1, 2012, but begins on or before December 31, 2012, in the case of a sales factor weighted taxpayer, if one or more of the factors listed in Subsection 59-7-311(3)(b)(i) is missing and if the sales factor is

present, the fraction by which business income shall be apportioned to the state shall be determined by adding the factors as provided in Subsection 59-7-311(3)(b)(i), and dividing that sum by the denominator, indicated in Subsection 59-7-311(3)(b)(ii), reduced by the number of missing factors.

(b) Allocation. Any taxpayer subject to the taxing jurisdiction of this state shall allocate all of its nonbusiness income or loss within or without this state in accordance with Sections 59-7-306 to 59-7-310.

(5) Consistency and Uniformity in Reporting. In filing returns with this state, if the taxpayer departs from or modifies the manner in which income has been classified as business income or nonbusiness income in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification. If the returns or reports filed by a taxpayer for all states to which the taxpayer reports under UDITPA are not uniform in the classification of income as business or nonbusiness income, the taxpayer shall disclose in its return to this state the nature and extent of the variance.

(6) Taxable in Another State.

(a) In General. Under Section 59-7-303 the taxpayer is subject to the allocation and apportionment provisions of UDITPA if it has income from business activity that is taxable both within and without this state. A taxpayer's income from business activity is taxable without this state if the taxpayer, by reason of business activity (i.e., the transactions and activity occurring in the regular course of the trade or business), is taxable in another state within the meaning of Section 59-7-305. A taxpayer is taxable within another state if it meets either one of two tests:

(i) if by reason of business activity in another state the taxpayer is subject to one of the types of taxes specified in Section 59-7-305(1), namely: a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(ii) if by reason of business activity another state has jurisdiction to subject the taxpayer to a net income tax, regardless of whether the state imposes that tax on the taxpayer. A taxpayer is not taxable in another state with respect to the trade or business merely because the taxpayer conducts activities in that state pertaining to the production of nonbusiness income or business activities relating to a separate trade or business.

(b) When a Taxpayer Is Subject to a Tax Under Section 59-7-305. A taxpayer is subject to one of the taxes specified in Section 59-7-305(1) if it carries on business activity in a state and that state imposes such a tax thereon. Any taxpayer that asserts that it is subject to one of the taxes specified in Section 59-7-305(1) in another state shall furnish to the Tax Commission, upon its request, evidence to support that assertion. The Tax Commission may request that the evidence include proof that the taxpayer has filed the requisite tax return in the other state and has paid any taxes imposed under the law of the other state. The taxpayer's failure to produce that proof may be taken into account in determining whether the taxpayer is subject to one of the taxes specified in Section 59-7-305(1) in the other state. If the taxpayer voluntarily files and pays one or more taxes when not required to do so by the laws of that state or pays a minimal fee for qualification, organization, or for the privilege of doing business in that state, but

(i) does not actually engage in business activity in that state, or

(ii) does actually engage in some business activity, not sufficient for nexus, and the minimum tax bears no relation to the taxpayer's business activity within that state, the taxpayer is not subject to one of the taxes specified within the meaning of Section 59-7-305(1).

(c) When a State Has Jurisdiction to Subject a Taxpayer to a Net Income Tax. The second test, that of Section 59-7-305(2), applies if the taxpayer's business activity is sufficient to give the state jurisdiction to impose a net income tax by reason of business activity under the Constitution and statutes of the United States. Jurisdiction to tax is not present where the state is prohibited from imposing the tax by reason of the provisions of Public Law 86-272, 15 U. S. C. A. Sec. 381-385 (P.L. 86-272). In the case of any state as defined in Section 59-7-302(6), other than a state of the United States or political subdivision of a state, the determination of whether a state has jurisdiction to subject the taxpayer to a net income tax shall be made as though the jurisdictional standards applicable to a state of the United States applied in that state. If jurisdiction is otherwise present, the state is not considered as without jurisdiction by reason of the provisions of a treaty between that state and the United States.

(7) Apportionment Formula. All business income of the taxpayer shall be apportioned to this state by use of the apportionment formula set forth in Section 59-7-311. The elements of the apportionment formula are the property factor, see Subsection (8), the payroll factor, see Subsection (9), and the sales factor, see Subsection (10) of the trade or business of the taxpayer. For exceptions see Subsection (11).

(8) Property Factor.

(a) In General.

(i) The property factor of the apportionment formula shall include all real and tangible personal property owned or rented by the taxpayer and used during the tax period in the regular course of its trade or business. Real and tangible personal property includes land, buildings, machinery, stocks of goods, equipment, and other real and tangible personal property but does not include coin or currency.

(ii) Property used in connection with the production of nonbusiness income shall be excluded from the property factor. Property used both in the regular course of the taxpayer's trade or business and in the production of nonbusiness income shall be included in the factor only to the extent the property is used in the regular course of the taxpayer's trade or business. The method of determining the portion of the value to be included in the factor will depend upon the facts of each case.

(iii) The property factor shall reflect the average value of property includable in the factor. Refer to Subsection (8)(g).

(b) Property Used for the Production of Business Income. Property shall be included in the property factor if it is actually used or is available for or capable of being used during the tax period in the regular course of the trade or business of the taxpayer. Property held as reserves or standby facilities or property held as a reserve source of materials shall be included in the factor. For example, a plant temporarily idle or raw material reserves not currently being processed are includable in the factor. Property or equipment under construction during the tax period, except inventoriable goods in process, shall be excluded from the factor until the property is actually used in the regular course of the trade or business of the taxpayer. If the property is partially used in the regular course of the

trade or business of the taxpayer while under construction, the value of the property to the extent used shall be included in the property factor. Property used in the regular course of the trade or business of the taxpayer shall remain in the property factor until its permanent withdrawal is established by an identifiable event such as its conversion to the production of nonbusiness income, its sale, or the lapse of an extended period of time, normally five years, during which the property is no longer held for use in the trade or business.

(c) Consistency in Reporting. In filing returns with this state, if the taxpayer departs from or modifies the manner of valuing property, or of excluding or including property in the property factor, used in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification. If the returns or reports filed by the taxpayer with all states to which the taxpayer reports under UDITPA are not uniform in the valuation of property and in the exclusion or inclusion of property in the property factor, the taxpayer shall disclose in its return to this state the nature and extent of the variance.

(d) Property Factor Numerator. The numerator of the property factor shall include the average value of the real and tangible personal property owned or rented by the taxpayer and used in this state during the tax period in the regular course of the trade or business of the taxpayer. Property in transit between locations of the taxpayer to which it belongs shall be considered to be at the destination for purposes of the property factor. Property in transit between a buyer and seller that is included by a taxpayer in the denominator of its property factor in accordance with its regular accounting practices shall be included in the numerator according to the state of destination. The value of mobile or movable property such as construction equipment, trucks, or leased electronic equipment that are located within and without this state during the tax period shall be determined for purposes of the numerator of the factor on the basis of total time within the state during the tax period. An automobile assigned to a traveling employee shall be included in the numerator of the factor of the state to which the employee's compensation is assigned under the payroll factor or in the numerator of the state in which the automobile is licensed.

(e) Valuation of Owned Property.

(i) Property owned by the taxpayer shall be valued at its original cost. As a general rule original cost is deemed to be the basis of the property for state franchise or income tax purposes (prior to any adjustments) at the time of acquisition by the taxpayer and adjusted by subsequent capital additions or improvements thereto and partial disposition thereof, by reasons including sale, exchange, and abandonment. However, capitalized intangible drilling and development costs shall be included in the property factor whether or not they have been expensed for either federal or state tax purposes.

(ii) Inventory of stock of goods shall be included in the factor in accordance with the valuation method used for state tax purposes.

(iii) Property acquired by gift or inheritance shall be included in the factor at its basis for determining depreciation.

(f) Valuation of Rented Property.

(i) Property rented by the taxpayer is valued at eight times its net annual rental rate. The net annual rental rate for any item of rented property is the annual rental rate paid by the taxpayer for the property, less the aggregate annual subrental rates paid by subtenants of the taxpayer. See Subsection (11)(b) for special rules where the use of the net annual rental rate produces a negative or clearly inaccurate value or where property is used by the taxpayer at no charge or rented at a nominal rental rate.

(ii) Subrents are not deducted when the subrents constitute business income because the property that produces the subrents is used in the regular course of the trade or business of the taxpayer when it is producing the income. Accordingly there is no reduction in its value.

(iii) Annual rental rate is the amount paid as rental for property for a 12-month period; i.e., the amount of the annual rent. Where property is rented for less than a 12-month period, the rent paid for the actual period of rental shall constitute the annual rental rate for the tax period. However, where a taxpayer has rented property for a term of 12 or more months and the current tax period covers a period of less than 12 months (due, for example, to a reorganization or change of accounting period), the rent paid for the short tax period shall be annualized. If the rental term is for less than 12 months, the rent shall not be annualized beyond its term. Rent shall not be annualized because of the uncertain duration when the rental term is on a month to month basis.

(iv) Annual rent is the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer or for its benefit for the use of the property and includes:

(A) Any amount payable for the use of real or tangible personal property, or any part thereof, whether designated as a fixed sum of money or as a percentage of sales, profits or otherwise.

(B) Any amount payable as additional rent or in lieu of rents, such as interest, taxes, insurance, repairs or any other items that are required to be paid by the terms of the lease or other arrangement, not including amounts paid as service charges, such as utilities, and janitor services. If a payment includes rent and other charges unsegregated, the amount of rent shall be determined by consideration of the relative values of the rent and other items.

(v) Annual rent does not include:

(A) incidental day-to-day expenses such as hotel or motel accommodations, or daily rental of automobiles;

(B) royalties based on extraction of natural resources, whether represented by delivery or purchase. For this purpose, a royalty includes any consideration conveyed or credited to a holder of an interest in property that constitutes a sharing of current or future production of natural resources from that property, irrespective of the method of payment or how that consideration may be characterized, whether as a royalty, advance royalty, rental, or otherwise.

(vi) Leasehold improvements shall, for the purposes of the property factor, be treated as property owned by the taxpayer regardless of whether the taxpayer is entitled to remove the improvements or the improvements revert to the lessor upon expiration of the lease. Hence, the original cost of leasehold improvements shall be included in the factor.

(g) Averaging Property Values. As a general rule, the average value of property owned by the taxpayer shall be determined by averaging the values at the beginning and end of the tax period. However, the Tax Commission may require or allow averaging by monthly values if that method of averaging is required to properly reflect the average value of the taxpayer's property for the tax period.

(i) Averaging by monthly values will generally be applied if substantial fluctuations in the values of the property exist during the tax period or where property is acquired after the beginning of the tax period or disposed of before the end of the tax period.

(ii) Example: The monthly value of the taxpayer's property was as follows:

TABLE

January	$ 2,000
February	2,000
March	3,000
April	3,500
May	4,500
June	10,000
July	15,000
August	17,000
September	23,000
October	25,000
November	13,000
December	2,000
Total	$120,000

The average value of the taxpayer's property includable in the property factor for the income year is determined as follows:

$120,000 / 12 = $10,000

(iii) Averaging with respect to rented property is achieved automatically by the method of determining the net annual rental rate of the property as set forth in Subsection (8)(g).

(9) Payroll Factor.

(a) The payroll factor of the apportionment formula shall include the total amount paid by the taxpayer in the regular course of its trade or business for compensation during the tax period.

(b) The total amount paid to employees is determined upon the basis of the taxpayer's accounting method. If the taxpayer has adopted the accrual method of accounting, all compensation properly accrued shall be deemed to have been paid. Notwithstanding the taxpayer's method of accounting, at the election of the taxpayer, compensation paid to employees may be included in the payroll factor by use of the cash method if the taxpayer is required to report compensation under that method for unemployment compensation purposes. The compensation of any employee on account of activities that are connected with the production of nonbusiness income shall be excluded from the factor.

(c) Payments made to an independent contractor or any other person not properly classifiable as an employee are excluded from the payroll factor. Only amounts paid directly to employees are included in the payroll factor. Amounts considered paid directly include the value of board, rent, housing, lodging, and other benefits or services furnished to employees by the taxpayer in return for personal services.

(d) Generally, a person will be considered to be an employee if he is included by the taxpayer as an employee for purposes of the payroll taxes imposed by the Federal Insurance Contributions Act. However, since certain individuals are included within the term employees in the Federal Insurance Contributions Act who would not be employees under the usual common law rules, it may be established that a person who is included as an employee for purposes of the Federal Insurance Contributions Act is not an employee for purposes of this rule.

(e)(A) In filing returns with this state, if the taxpayer departs from or modifies the treatment of compensation paid used in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

(B) If the returns or reports filed by the taxpayer with all states to which the taxpayer reports under UDITPA are not uniform in the treatment of compensation paid, the taxpayer shall disclose in its return to this state the nature and extent of the variance.

(f) Denominator. The denominator of the payroll factor is the total compensation paid everywhere during the tax period. Accordingly, compensation paid to employees whose services are performed entirely in a state where the taxpayer is immune from taxation, for example, by P.L. 86-272, are included in the denominator of the payroll factor.

(g) Numerator. The numerator of the payroll factor is the total amount paid in this state during the tax period by the taxpayer for compensation. The tests in Section 59-7-316 to be applied in determining whether compensation is paid in this state are derived from the Model Unemployment Compensation Act. Accordingly, if compensation paid to employees is included in the payroll factor by use of the cash method of accounting or if the taxpayer is required to report compensation under that method for unemployment compensation purposes, it shall be presumed that the total wages reported by the taxpayer to this state for unemployment compensation purposes constitute compensation paid in this state except for compensation excluded under this Subsection (9) . The presumption may be overcome by satisfactory evidence that an employee's compensation is not properly reportable to this state for unemployment compensation purposes.

(h) Compensation Paid in this State. Compensation is paid in this state if any one of the following tests applied consecutively are met:

(i) The employee's service is performed entirely within the state.

(ii) The employee's service is performed both within and without the state, but the service performed without the state is incidental to the employee's service within the state. The word incidental means any service that is temporary or transitory in nature, or that is rendered in connection with an isolated transaction.

(iii) If the employee's services are performed both within and without this state, the employee's compensation will be attributed to this state:

(A) if the employee's base of operations is in this state; or

(B) if there is no base of operations in any state in which some part of the service is performed, but the place from which the service is directed or controlled is in this state; or

(C) if the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed but the employee's residence is in this state.

(10) Sales Factor. In General.

(a) Section 59-7-302(5) defines the term "sales" to mean all gross receipts of the taxpayer not allocated under Section 59-7-306 through 59-7-310. Thus, for purposes of the sales factor of the apportionment formula for the trade or business of the taxpayer, the term sales means all gross receipts derived by the taxpayer from transactions and activity in the regular course of the trade or business. The following are rules determining sales in various situations.

(i) In the case of a taxpayer engaged in manufacturing and selling or purchasing and reselling goods or products, sales

includes all gross receipts from the sales of goods or products (or other property of a kind that would properly be included in the inventory of the taxpayer if on hand at the close of the tax period) held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business. Gross receipts for this purpose means gross sales, less returns and allowances and includes all interest income, service charges, carrying charges, or time-price differential charges incidental to sales. Federal and state excise taxes (including sales taxes) shall be included as part of receipts if taxes are passed on to the buyer or included as part of the selling price of the product.

(ii) In the case of cost plus fixed fee contracts, such as the operation of a government-owned plant for a fee, sales includes the entire reimbursed cost, plus the fee.

(iii) In the case of a taxpayer engaged in providing services, such as the operation of an advertising agency, or the performance of equipment service contracts, or research and development contracts, sales includes the gross receipts from the performance of services including fees, commissions, and similar items.

(iv) In the case of a taxpayer engaged in renting real or tangible property, sales includes the gross receipts from the rental, lease or licensing of the use of the property.

(v) In the case of a taxpayer engaged in the sale, assignment, or licensing of intangible personal property such as patents and copyrights, sales includes the gross receipts therefrom.

(vi) If a taxpayer derives receipts from the sale of equipment used in its business, those receipts constitute sales. For example, a truck express company owns a fleet of trucks and sells its trucks under a regular replacement program. The gross receipts from the sales of the trucks are included in the sales factor.

(vii) In some cases certain gross receipts should be disregarded in determining the sales factor in order that the apportionment formula will operate fairly to apportion to this state the income of the taxpayer's trade or business. See Subsection (11)(c).

(viii) In filing returns with this state, if the taxpayer departs from or modifies the basis for excluding or including gross receipts in the sales factor used in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

(ix) If the returns or reports filed by the taxpayer with all states to which the taxpayer reports under UDITPA are not uniform in the inclusion or exclusion of gross receipts, the taxpayer shall disclose in its return to this state the nature and extent of the variance.

(b) Denominator. The denominator of the sales factor shall include the total gross receipts derived by the taxpayer from transactions and activity in the regular course of its trade or business, except receipts excluded under Subsection (11)(c).

(c) Numerator. The numerator of the sales factor shall include gross receipts attributable to this state and derived by the taxpayer from transactions and activity in the regular course of its trade or business. All interest income, service charges, carrying charges, or time-price differential charges incidental to gross receipts shall be included regardless of the place where the accounting records are maintained or the location of the contract or other evidence of indebtedness.

(d) Sales of Tangible Personal Property in this State.

(i) Gross receipts from the sales of tangible personal property (except sales to the United States government; see Subsection (10)(e) are in this state:

(A) if the property is delivered or shipped to a purchaser within this state regardless of the f.o.b. point or other conditions of sale; or

(B) if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the taxpayer is not taxable in the state of the purchaser.

(ii) Property shall be deemed to be delivered or shipped to a purchaser within this state if the recipient is located in this state, even though the property is ordered from outside this state.

(iii) Property is delivered or shipped to a purchaser within this state if the shipment terminates in this state, even though the property is subsequently transferred by the purchaser to another state.

(iv) The term "purchaser within this state" shall include the ultimate recipient of the property if the taxpayer in this state, at the designation of the purchaser, delivers to or has the property shipped to the ultimate recipient within this state.

(v) When property being shipped by a seller from the state of origin to a consignee in another state is diverted while en route to a purchaser in this state, the sales are in this state.

(vi) If the taxpayer is not taxable in the state of the purchaser, the sale is attributed to this state if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state.

(vii) If a taxpayer whose salesman operates from an office located in this state makes a sale to a purchaser in another state in which the taxpayer is not taxable and the property is shipped directly by a third party to the purchaser, the following rules apply:

(A) If the taxpayer is taxable in the state from which the third party ships the property, then the sale is in that state.

(B) If the taxpayer is not taxable in the state from which the property is shipped, the sale is in this state.

(e)(i) Sales of Tangible Personal Property to United States Government in this state.

(ii) Gross receipts from the sales of tangible personal property to the United States government are in this state if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state. For purposes of this rule, only sales for which the United States government makes direct payment to the seller pursuant to the terms of a contract constitute sales to the United States government. Thus, as a general rule, sales by a subcontractor to the prime contractor, the party to the contract with the United States government, do not constitute sales to the United States government.

(f) Sales Other than Sales of Tangible Personal Property in this State.

(i) In general, Section 59-7-319(1) provides for the inclusion in the numerator of the sales factor of gross receipts from transactions other than sales of tangible personal property (including transactions with the United States government). Under Section 59-7-319(1), gross receipts are attributed to this state if the income producing activity that gave rise to the receipts is performed wholly within this state. Also, gross receipts are attributed to this state if, with respect to a particular item of income, the income

producing activity is performed within and without this state but the greater proportion of the income producing activity is performed in this state, based on costs of performance.

(ii) The term "income producing activity" applies to each separate item of income and means the transactions and activity directly engaged in by the taxpayer in the regular course of its trade or business for the ultimate purpose of obtaining gains or profit. Income producing activity does not include transactions and activities performed on behalf of a taxpayer, such as those conducted on its behalf by an independent contractor. Accordingly, the income producing activity includes the following:

(A) the rendering of personal services by employees or the utilization of tangible and intangible property by the taxpayer in performing a service;

(B) the sale, rental, leasing, or licensing or other use of real property;

(C) the rental, leasing, licensing or other use of intangible personal property; or

(D) the sale, licensing or other use of intangible personal property. The mere holding of intangible personal property is not, of itself, an income producing activity.

(iii) The term "costs of performance" means direct costs determined in a manner consistent with generally accepted accounting principles and in accordance with accepted conditions or practices in the trade or business of the taxpayer.

(iv) Receipts (other than from sales of tangible personal property) in respect to a particular income producing activity are in this state if:

(A) the income producing activity is performed wholly within this state; or

(B) the income producing activity is performed both in and outside this state and a greater proportion of the income producing activity is performed in this state than in any other state, based on costs of performance.

(v) The following are special rules for determining when receipts from the income producing activities described below are in this state:

(A) Gross receipts from the sale, lease, rental or licensing of real property are in this state if the real property is located in this state.

(B) Gross receipts from the rental, lease, or licensing of tangible personal property are in this state if the property is located in this state. The rental, lease, licensing or other use of tangible personal property in this state is a separate income producing activity from the rental, lease, licensing or other use of the same property while located in another state. Consequently, if the property is within and without this state during the rental, lease or licensing period, gross receipts attributable to this state shall be measured by the ratio that the time the property was physically present or was used in this state bears to the total time or use of the property everywhere during the period.

(C) Gross receipts for the performance of personal services are attributable to this state to the extent services are performed in this state. If services relating to a single item of income are performed partly within and partly without this state, the gross receipts for the performance of services shall be attributable to this state only if a greater portion of the services were performed in this state, based on costs of performance. Usually where services are performed partly within and partly without this state, the services performed in each state will constitute a separate income producing activity. In that case, the gross receipts for the performance of services attributable to this state shall be measured by the ratio that the time spent in performing services in this state bears to the total time spent in performing services everywhere. Time spent in performing services includes the amount of time expended in the performance of a contract or other obligation that gives rise to gross receipts. Personal service not directly connected with the performance of the contract or other obligations, as for example, time expended in negotiating the contract, is excluded from the computations.

(11) Special Rules:

(a) Section 59-7-320 provides that if the allocation and apportionment provisions of UDITPA do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for, or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(i) separate accounting;

(ii) the exclusion of any one or more of the factors;

(iii) the inclusion of one or more additional factors that will fairly represent the taxpayer's business activity in this state; or

(iv) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(b) Property Factor.

The following special rules are established in respect to the property factor of the apportionment formula:

(i) If the subrents taken into account in determining the net annual rental rate under Subsection (8)(f)(ii) produce a negative or clearly inaccurate value for any item of property, another method that will properly reflect the value of rented property may be required by the Tax Commission or requested by the taxpayer. In no case however, shall the value be less than an amount that bears the same ratio to the annual rental rate paid by the taxpayer for property as the fair market value of that portion of property used by the taxpayer bears to the total fair market value of the rented property.

(ii) If property owned by others is used by the taxpayer at no charge or rented by the taxpayer for a nominal rate, the net annual rental rate for the property shall be determined on the basis of a reasonable market rental rate for that property.

(c) Sales Factors.

The following special rules are established in respect to the sales factor of the apportionment formula:

(i) Where substantial amounts of gross receipts arise from an incidental or occasional sale of a fixed asset used in the regular course of the taxpayer's trade or business, those gross receipts shall be excluded from the sales factor. For example, gross receipts from the sale of a factory or plant will be excluded.

(ii) Insubstantial amounts of gross receipts arising from incidental or occasional transactions or activities may be excluded from the sales factor unless exclusion would materially affect the amount of income apportioned to this state. For example, the taxpayer ordinarily may include or exclude from the sales factor gross receipts from such transactions as the sale of office furniture, and business automobiles.

(iii) Where the income producing activity in respect to business income from intangible personal property can be readily identified, that income is included in the denominator of the sales factor and, if the income producing activity occurs in this state, in the numerator of the sales factor as well. For example, usually the

income producing activity can be readily identified in respect to interest income received on deferred payments on sales of tangible property, see Subsection (10)(a)(i), and income from the sale, licensing or other use of intangible personal property, see Subsection (10)(f)(ii)(D).

(A) Where business income from intangible property cannot readily be attributed to any particular income producing activity of the taxpayer, the income cannot be assigned to the numerator of the sales factor for any state and shall be excluded from the denominator of the sales factor. For example, where business income in the form of dividends received on stock, royalties received on patents or copyrights, or interest received on bonds, debentures or government securities results from the mere holding of the intangible personal property by the taxpayer, such dividends and interest shall be excluded from the denominator of the sales factor.

(B) Exclude from the denominator of the sales factor, receipts from the sales of securities unless the taxpayer is a dealer therein.

(iv) Where gains and losses on the sale of liquid assets are not excluded from the sales factor by other provisions under Subsections (11)(c)(i) through (iii), such gains or losses shall be treated as provided in this Subsection (11)(c)(iv). This Subsection (11)(c)(iv) does not provide rules relating to the treatment of other receipts produced from holding or managing such assets.

(A) If a taxpayer holds liquid assets in connection with one or more treasury functions of the taxpayer, and the liquid assets produce business income when sold, exchanged or otherwise disposed, the overall net gain from those transactions for each treasury function for the tax period is included in the sales factor. For purposes of this Subsection (11)(c)(iv), each treasury function will be considered separately.

(B) For purposes of this Subsection (11)(c)(iv), a liquid asset is an asset (other than functional currency or funds held in bank accounts) held to provide a relatively immediate source of funds to satisfy the liquidity needs of the trade or business. Liquid assets include:

(I) foreign currency (and trading positions therein) other than functional currency used in the regular course of the taxpayer's trade or business;

(II) marketable instruments (including stocks, bonds, debentures, options, warrants, futures contracts, etc.); and

(III) mutual funds which hold such liquid assets.

(C) An instrument is considered marketable if it is traded in an established stock or securities market and is regularly quoted by brokers or dealers in making a market. Stock in a corporation which is unitary with the taxpayer, or which has a substantial business relationship with the taxpayer, is not considered marketable stock.

(D) For purposes of this Subsection (11)(c)(iv)(D), a treasury function is the pooling and management of liquid assets for the purpose of satisfying the cash flow needs of the trade or business, such as providing liquidity for a taxpayer's business cycle, providing a reserve for business contingencies, business acquisitions, etc. A taxpayer principally engaged in the trade or business of purchasing and selling instruments or other items included in the definition of liquid assets set forth herein is not performing a treasury function with respect to income so produced.

(E) Overall net gain refers to the total net gain from all transactions incurred at each treasury function for the entire tax period, not the net gain from a specific transaction.

(d) Domestic International Sales Corporation (DISC). In any case in which a corporation, subject to the income tax jurisdiction of Utah, owns 50 percent or more of the voting power of the stock of a corporation classified as a DISC under the provisions of Sec. 992 Internal Revenue Code, a combined filing with the DISC corporation is required.

(e) Partnership or Joint Venture Income. Income or loss from partnership or joint venture interests shall be included in income and apportioned to Utah through application of the three-factor formula consisting of property, payroll and sales. For apportionment purposes, the portion of partnership or joint venture property, payroll and sales to be included in the corporation's property, payroll and sales factors shall be computed on the basis of the corporation's ownership interest in the partnership or joint venture, and otherwise in accordance with other applicable provisions of this rule.

KEY: taxation, franchises, historic preservation, trucking industries
Date of Enactment or Last Substantive Amendment: [~~August 12,~~]2010
Notice of Continuation: March 8, 2007
Authorizing, and Implemented or Interpreted Law: 59-7-302 through 59-7-321

Tax Commission, Auditing
R865-6F-16
Apportionment of Income of Long-Term Construction Contractors Pursuant to Utah Code Ann. Sections 59-7-302 through 321

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34080
FILED: 09/15/2010

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment updates references to another Tax Commission rule section and repeals outdated language.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment updates references to Section R865-6F-8. The proposed amendment also repeals language providing that the apportionment fraction is the total of the property, payroll,

and sales percentages divided by three, since there are now alternative methods of determining the apportionment fraction.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-7-302 through 321

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The amendment is cost neutral because it consists only of updating references and removing confusing language.
♦ LOCAL GOVERNMENTS: The amendment is cost neutral because it consists only of updating references and removing confusing language.
♦ SMALL BUSINESSES: The amendment is cost neutral because it consists only of updating references and removing confusing language.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The amendment is cost neutral because it consists only of updating references and removing confusing language.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendment is cost neutral because it consists only of updating references and removing confusing language.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None anticipated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Michael Cragun by phone at 801-297-3907, by FAX at 801-297-3919, or by Internet E-mail at mcragun@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/15/2010

THIS RULE MAY BECOME EFFECTIVE ON: 11/22/2010

AUTHORIZED BY: R. Bruce Johnson, Tax Commission Chair

R865. Tax Commission, Auditing.
R865-6F. Franchise Tax.
R865-6F-16. Apportionment of Income of Long-Term Construction Contractors Pursuant to Utah Code Ann. Sections 59-7-302 through 321.

(1) When a taxpayer elects to use the percentage-of-completion method of accounting, or the completed contract method of accounting for long-term contracts, and has income from sources both within and without this state, the amount of business income derived from such long- term contracts from sources within this state is determined pursuant to this rule.

(2) Business income is apportioned to this state by a three-factor formula consisting of property, payroll, and sales--regardless of the method of accounting for long-term contracts elected by the taxpayer. The fraction by which business income shall be apportioned to the state shall be determined in accordance with rule R865-6F-8[~~(3)~~](4) and [~~(6)~~](7). Except as modified by this rule, the property factor shall be determined in accordance with R865-6F-8[~~(7)~~](8), the payroll factor in accordance with R865-6F-8[~~(8)~~](9), and the sales factor in accordance with R865-6F-8[~~(9)~~](10).

(a) Percentage-of-completion method. Under this method of accounting for long-term contracts, the amount included each year as business income from each contract is the amount by which the gross contract price (which corresponds to the percentage of the entire contract completed during the income years) exceeds all expenditures made during the income year in connection with the contract. Beginning and ending material and supplies inventories must be appropriately accounted for in reporting expenditures.

(b) Completed-contract method. Under this method of accounting, business income derived from long-term contracts is reported for the income year in which the contract is completed. A special computation is required to compute the amount of business income attributable to this state from each completed contract. All receipts and expenditures applicable to the contracts, whether complete or incomplete at the end of the income year, are excluded from other business income, which are apportioned by the regular three-factor formula of property, payroll, and sales.

(3) Property factor. In general, the numerator and denominator of the property factor is determined as set forth in Sections 59-7-312, 59-7-313, and 59-7-314 and the rules thereunder. However, the following special rules are also applicable:

(a) The average value of the taxpayer's cost (including materials and labor) of construction in progress, to the extent these costs exceed progress billings, are included in the denominator of the property factor. The value of those construction costs attributable to construction projects in this state are included in the numerator of the property factor. It may be necessary to use monthly averages if yearly averages do not properly reflect the average value of the taxpayer's equity.

(b) Rent paid for the use of equipment directly attributable to a particular construction project is included in the property factor at eight times the net annual rental rate, even though the rental expense may be capitalized into the cost of construction.

(c) The property factor is computed in the same manner for all long-term-contract methods of accounting and is computed for each income year, even though under the completed-contract method of accounting business income is computed separately.

(4) Payroll factor. In general, the numerator and denominator of the payroll factor are determined as set forth in Sections 59-7-315 and 59-7-316 and the rules thereunder. However, the following special rules are also applicable.

(a) Compensation paid to employees attributable to a particular construction project is included in the payroll factor even though capitalized into the cost of construction.

(b) Compensation paid to employees who, in the aggregate, perform most of their services in a state to which their employer does not report them for unemployment tax purposes, is attributed to the state where the services are performed. For example, a taxpayer engaged in a long-term contract in State X sends several key employees to that state to supervise the project. The taxpayer, for unemployment tax purposes reports these employees to State Y where the main office is maintained and where the employees reside. For payroll factor purposes and in accordance with Section 59-7-316 and the rule thereunder, the compensation is assigned to the numerator of State X.

(c) The payroll factor is computed in the same manner for all long-term-contract methods of accounting and is computed for each income year, even though under the completed contract method of accounting, business income is computed separately.

(5) Sales Factor. In general, the numerator and denominator of the sales factor shall be determined as set forth in Sections 59-7-317, 59-7-318, and 59-7-319 and the rules thereunder. However, the following special rules are also applicable.

(a) Gross receipts derived from the performance of a contract are attributable to this state if the construction project is located in this state. If the construction project is located partly within and partly without this state, the gross receipts attributable to this state are based upon the ratio which construction costs for the project in this state incurred during the coming year bears to the total of such construction costs for the entire project during the income year. Progress billings are ordinarily used to reflect gross receipts and must be shown in both the numerator and denominator of the sales factor.

(b) If the percentage-of-completion method is used, the sales factor includes only that portion of the gross contract price which corresponds to the percentage of the entire contract which was completed during the income year. For example, a construction contractor which had elected the percentage-of-completion method of accounting entered into a $9,000,000 long-term construction contract. At the end of its current income year (the second since starting the project) it estimated that the project was 30 percent completed. The amount of gross receipts included in the sales factor for the current income year is $2,700,000 (30 percent of $9,000,000), regardless of whether the taxpayer uses the accrual method or the cash method of accounting for receipts and disbursements.

(c) If the completed-contract method of accounting is used, the sales factor includes the portion of the gross receipts (progress billings) received under the cash basis or accrued, whichever is applicable, during the income year attributable to each contract. For example, a construction contractor which elected the completed-contract method of accounting entered into a long-term construction contract. At the end of its current income year (the second since starting the project) it had billed, and accrued on its books a total of $5,000,000 of which $2,000,000 had accrued in the first year the contract was undertaken, and $3,000,000 in the current (second) year. The amount of gross receipts included in the sales factor for the current income year is $3,000,000. If the taxpayer keeps its books on the cash basis, and as of the end of its current income year has received only $2,500,000 of the $3,000,000 billed during the current year, the amount of gross receipts to be included in the sales factor for the current year is $2,500,000.

(d) The sales factor, except as noted above in Subsections (5)(b) and (c), is computed in the same manner for all long-term contract methods of accounting and is computed for each income year--even though under the completed-contract method of accounting, business income is computed separately.

~~[(6) The total of the property, payroll, and sales percentages is divided by three to determine the apportionment percentage which is then applied to business income to establish the amount apportioned to this state.~~

~~(7)~~](6) The completed-contract method of accounting provides that the reporting of income (or loss) is deferred until the year the construction project is completed. In order to determine the amount of income which is attributable to sources within this state, a separate computation is made for each contract completed during the income year, regardless of whether the project is located within or without this state. The amount of income from each contract completed during the income year apportioned to this state is added to other business income apportioned to this state by the regular three-factor formula, and that total together with all nonbusiness income allocated to this state becomes the measure of tax for the income year. The amount of income (or loss) from each contract which is derived from sources within this state using the completed-contract method of accounting is computed as follows.

(a) In the income year the contract is completed, the income (or loss) therefrom is determined.

(b) The income (or loss) determined at Subsection [~~(7)~~](6)(a) is apportioned to this state by the following method:

(i) a fraction is determined for each year the contract was in progress (the numerator of which is the amount of construction costs paid or accrued each year the contract was in progress, and the denominator of which is the total of all construction costs for the project);

(ii) each fraction determined in Subsection [~~(7)~~](6)(b)(i) is multiplied by the apportionment formula percentage for that particular year;

(iii) these factors are totaled; and

(iv) the total income is multiplied by this combined percentage, and the resulting income (or loss) is the amount of contract business income assigned to this state.

(c) A corporation using the completed-contract method of accounting is required to include income derived from sources within this state from contracts within or without this state or income from incomplete contracts in progress outside this state in the year of withdrawal, dissolution, or cessation of business pursuant to Subsection [~~(7)~~](6)(d).

(d) The amount of income (or loss) from each such contract apportioned to this state is determined as if the percentage-of-completion method of accounting were used for all such contracts on the date of withdrawal, dissolution, or cessation of business. The amount of business income (or loss) for each such contract is the amount by which the gross contract price from each such contract from the commencement thereof to the date of withdrawal, dissolution, or cessation of business exceeds all expenditures made during such period in connection with each such contract. Beginning and ending material and supplies inventories must be appropriately accounted for in reporting expenditures in connection with each contract.

KEY: taxation, franchises, historic preservation, trucking industries
Date of Enactment or Last Substantive Amendment: [~~August 12,~~]2010
Notice of Continuation: March 8, 2007
Authorizing, and Implemented or Interpreted Law: 59-7-302 through 59-7-321

Tax Commission, Auditing
R865-6F-32
Taxation of Financial Institutions Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34082
FILED: 09/15/2010

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment updates references to another Tax Commission rule section and repeals outdated language.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment updates references to Section R865-6F-8. The proposed amendment also updates the determination of where a service is performed, for purposes of apportioning the receipts from a service performed both within and without the state, to the state where the purchaser of the services receives a greater benefit than in any other state. This matches recent statutory changes. Finally, the proposed amendment makes technical, nonsubstantive changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-7-302 through 59-7-321

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The amendment is cost neutral because it consists only of updating references and removing confusing language.
♦ LOCAL GOVERNMENTS: The amendment is cost neutral because it consists only of updating references and removing confusing language.
♦ SMALL BUSINESSES: The amendment is cost neutral because it consists only of updating references and removing confusing language.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The amendment is cost neutral because it consists only of updating references and removing confusing language.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendment is cost neutral because it consists only of updating references and removing confusing language.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None anticipated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Michael Cragun by phone at 801-297-3907, by FAX at 801-297-3919, or by Internet E-mail at mcragun@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/15/2010

THIS RULE MAY BECOME EFFECTIVE ON: 11/22/2010

AUTHORIZED BY: R. Bruce Johnson, Tax Commission Chair

R865. Tax Commission, Auditing.
R865-6F. Franchise Tax.
R865-6F-32. Taxation of Financial Institutions Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321.

(1) Definitions.

(a) "Billing address" means the location indicated in the books and records of the taxpayer on the first day of the taxable year, or on the later date in the taxable year when the customer relationship began, where any notice, statement or bill relating to a customer's account is mailed.

(b) "Borrower or credit card holder located in this state" means:

(i) a borrower, other than a credit card holder, that is engaged in a trade or business that maintains its commercial domicile in this state; or

(ii) a borrower that is not engaged in a trade or business, or a credit card holder, whose billing address is in this state.

(c) "Commercial domicile" means:

(i) the place from which the trade or business is principally managed and directed; or

(ii) if a taxpayer is organized under the laws of a foreign country, or of the Commonwealth of Puerto Rico, or any territory or possession of the United States, that taxpayer's commercial domicile shall be deemed for the purposes of this rule to be the state of the United States or the District of Columbia from which that taxpayer's trade or business in the United States is principally managed and directed. It shall be presumed, subject to rebuttal, that the location from which the taxpayer's trade or business is principally managed and directed is the state of the United States or the District of Columbia to which the greatest number of employees

are regularly connected or out of which they are working, irrespective of where the services of those employees are performed, as of the last day of the taxable year.

(d) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services that are included in the employee's gross income under the federal Internal Revenue Code. In the case of employees not subject to the federal Internal Revenue Code, the determination of whether payments constitute gross income under the federal Internal Revenue Code shall be made as though those employees were subject to the federal Internal Revenue Code.

(e) "Credit card" means a credit, travel, or entertainment card.

(f) "Credit card issuer's reimbursement fee" means the fee a taxpayer receives from a merchant's bank because one of the persons to whom the taxpayer has issued a credit card has charged merchandise or services to the credit card.

(g) "Employee" means, with respect to a particular taxpayer, any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee of that taxpayer.

(h) "Financial institution" means:

(i) any corporation or other business entity registered under state law as a bank holding company or registered under the Federal Bank Holding Company Act of 1956, as amended, or registered as a savings and loan holding company under the Federal National Housing Act, as amended;

(ii) a national bank organized and existing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. Sections 21 et seq.;

(iii) a savings association or federal savings bank as defined in the Federal Deposit Insurance Act, 12 U.S.C. Section 1813(b)(1);

(iv) any bank, industrial loan corporation, or thrift institution incorporated or organized under the laws of any state;

(v) any corporation organized under the provisions of 12 U.S.C. Sections611 through 631.

(vi) any agency or branch of a foreign depository as defined in 12 U.S.C. Section 3101;

(vii) a production credit association organized under the Federal Farm Credit Act of 1933, all of whose stock held by the Federal Production Credit Corporation has been retired;

(viii) any corporation whose voting stock is more than 50 percent owned, directly or indirectly, by any person or business entity described in Subsections (1)(h)(i) through (vii), other than an insurance company taxable under Title 59, Chapter 9, Taxation of Admitted Insurers;

(ix) a corporation or other business entity that derives more than 50 percent of its total gross income for financial accounting purposes from finance leases. For purposes of this subsection, a "finance lease" shall mean any lease transaction that is the functional equivalent of an extension of credit and that transfers substantially all of the benefits and risks incident to the ownership of property. The phrase shall include any direct financing lease or leverage lease that meets the criteria of Financial Accounting Standards Board Statement No. 13, Accounting for Leases, or any other lease that is accounted for as a financing lease by a lessor under generally accepted accounting principles. For this classification to apply:

(A) the average of the gross income in the current tax year and immediately preceding two tax years must satisfy the more than 50 percent requirement; and

(B) gross income from incidental or occasional transactions shall be disregarded;

(x) any other person or business entity, other than an insurance company, a credit union exempt from the corporation franchise tax under Section 59-7-102, a real estate broker, or a securities dealer, that derives more than 50 percent of its gross income from activities that a person described in Subsections (1)(h)(ii) through(vii) and (1)(h)(ix) is authorized to transact.

(A) For purposes of this subsection, the computation of gross income shall not include income from non-recurring, extraordinary items; and

(B) The [~~Tax Commission~~]commission is authorized to exclude any person from the application of Subsection (1)(h)(x) upon receipt of proof, by clear and convincing evidence, that the income-producing activity of that person is not in substantial competition with those persons described in Subsections (1)(h)(ii) through (vii) and (1)(h)(ix).

(i) "Gross rents" means the actual sum of money or other consideration payable for the use or possession of property.

(i) Gross rents includes:

(A) any amount payable for the use or possession of real property or tangible property whether designated as a fixed sum of money or as a percentage of receipts, profits or otherwise;

(B) any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs or any other amount required to be paid by the terms of a lease or other arrangement; and

(C) a proportionate part of the cost of any improvement to real property, made by or on behalf of the taxpayer, that reverts to the owner or lessor upon termination of a lease or other arrangement. The amount included in gross rents is the amount of amortization or depreciation allowed in computing the taxable income base for the taxable year. However, where a building is erected on leased land by or on behalf of the taxpayer, the value of the land is determined by multiplying the gross rent by eight and the value of the building is determined in the same manner as if owned by the taxpayer.

(ii) Gross rents does not include:

(A) reasonable amounts payable as separate charges for water and electric service furnished by the lessor;

(B) reasonable amounts payable as service charges for janitorial services furnished by the lessor;

(C) reasonable amounts payable for storage, provided those amounts are payable for space not designated and not under the control of the taxpayer; and

(D) that portion of any rental payment applicable to the space subleased from the taxpayer and not used by the taxpayer.

(j) "Loan" means any extension of credit resulting from direct negotiations between the taxpayer and the taxpayer's customer, or the purchase, in whole or in part, of an extension of credit from another.

(i) Loan includes participations, syndications, and leases treated as loans for federal income tax purposes.

(ii) Loan does not include properties treated as loans under Section 595 of the federal Internal Revenue Code, futures or forward contracts, options, notional principal contracts such as swaps, credit card receivables, including purchased credit card

relationships, non-interest bearing balances due from depository institutions, cash items in the process of collection, federal funds sold, securities purchased under agreements to resell, assets held in a trading account, securities, interests in a real estate mortgage investment conduit as defined in Section 860D of the Internal Revenue Code, or other mortgage-backed or asset-backed security, and other similar items.

(k) "Loans secured by real property" means that fifty percent or more of the aggregate value of the collateral used to secure a loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property.

(l) "Merchant discount" means the fee, or negotiated discount, charged to a merchant by the taxpayer for the privilege of participating in a program whereby a credit card is accepted in payment for merchandise or services sold to the card holder.

(m) "Participation" means an extension of credit in which an undivided ownership interest is held on a pro rata basis in a single loan or pool of loans and related collateral. In a loan participation, the credit originator initially makes the loan and then subsequently resells all or a portion of it to other lenders. The participation may or may not be known to the borrower.

(n) "Person" means an individual, estate, trust, partnership, corporation, and any other business entity.

(o) "Principal base of operations" means:

(i) with respect to transportation property, the place of more or less permanent nature from which that property is regularly directed or controlled; and

(ii) with respect to an employee, the place of more or less permanent nature from which the employee regularly:

(A) starts his work and to which he customarily returns in order to receive instructions from his employer;

(B) communicates with his customers or other persons; or

(C) performs any other functions necessary to the exercise of his trade or profession at some other point or points.

(p)(i) "Real property owned" and "tangible personal property owned" mean real and tangible personal property, respectively:

(A) on which the taxpayer may claim depreciation for federal income tax purposes; or

(B) property to which the taxpayer holds legal title and on which no other person may claim depreciation for federal income tax purposes, or could claim depreciation if subject to federal income tax.

(ii) Real and tangible personal property do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure.

(q) "Regular place of business" means an office at which the taxpayer carries on business in a regular and systematic manner and is continuously maintained, occupied, and used by employees of the taxpayer.

(r) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country.

(s) "Syndication" means an extension of credit in which two or more persons fund and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount.

(t) "Taxable" means:

(i) a taxpayer is subject in another state to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, a corporate stock tax, including a bank shares tax, a single business tax, an earned surplus tax, or any tax imposed upon or measured by net income; or

(ii) another state has jurisdiction to subject the taxpayer to taxes regardless of whether that state actually imposes those taxes.

(u) "Transportation property" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels and motor vehicles, as well as any equipment or containers attached to that property, such as rolling stock, barges, and trailers.

(2) Apportionment and Allocation.

(a) A financial institution whose business activity is taxable both within and without this state, or a financial institution whose business activity is taxable within this state and is a member of a unitary group that includes one or more financial institutions where any member of the group is taxable without this state, shall allocate and apportion its net income as provided in this rule. All items of nonbusiness income shall be allocated pursuant to the provisions of Section 59-7-306. A financial institution organized under the laws of a foreign country, the Commonwealth of Puerto Rico, or a territory or possession of the United States, whose effectively connected income, as defined under the federal Internal Revenue Code, is taxable both within this state and within another state, other than the state in which it is organized, shall allocate and apportion its net income as provided in this rule.

(b) The fraction by which business income shall be apportioned to the state shall be determined in accordance with rule R865-6F-8[~~(3)~~](4) and [~~(6)~~](7). Except as modified by this rule, the property factor shall be determined in accordance with R865-6F-8[~~(7)~~](8), the payroll factor in accordance with R865-6F-8[~~(8)~~](9), and the sales factor in accordance with R865-6F-8[~~(9)~~](10).

(c) Each factor shall be computed according to the cash or accrual method of accounting as used by the taxpayer for the taxable year.

(d) If a unitary group of corporations filing a combined report includes one or more corporations meeting the definition of financial institution and one or more corporations that do not meet that definition, the provisions of this rule regarding the calculation of the property, payroll, and receipts factors of the apportionment fraction shall apply only to those corporations meeting the definition of financial institution. Those corporations not meeting the definition of financial institution shall compute their apportionment data based on rule R865-6F-8 or such other industry apportionment rule adopted by the [~~Tax Commission~~]commission that may be applicable. The apportionment data of all members of the unitary group shall be included in calculating a single apportionment fraction for the unitary group. The numerators and denominators of the property, payroll, and receipts factors of the financial institutions shall be added to the numerators and denominators, respectively, of the property, payroll, and sales factors of the nonfinancial institutions to determine the property, payroll, and sales factors of the unitary group.

(3) Receipts Factor.

(a) In general. The receipts factor is a fraction, the numerator of which is the receipts of the taxpayer in this state

during the taxable year and the denominator of which is the receipts of the taxpayer within and without this state during the taxable year. The method of calculating receipts for purposes of the denominator is the same as the method used in determining receipts for purposes of the numerator. The receipts factor shall include only those receipts that constitute business income and are included in the computation of the apportionable income base for the taxable year.

(b) Receipts from the lease of real property. The numerator of the receipts factor includes receipts from the lease or rental of real property owned by the taxpayer and receipts from the sublease of real property, if the property is located within this state.

(c) Receipts from the lease of tangible personal property.

(i) Except as described in Subsection (3)(d), the numerator of the receipts factor includes receipts from the lease or rental of tangible personal property owned by the taxpayer if the property is located within this state when it is first placed in service by the lessee.

(ii) Receipts from the lease or rental of transportation property owned by the taxpayer are included in the numerator of the receipts factor to the extent that the property is used in this state.

(A) The extent an aircraft will be deemed to be used in this state and the amount of receipts that shall be included in the numerator of this state's receipts factor are determined by multiplying all the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft.

(B) If the extent of the use of any transportation property within this state cannot be determined, that property will be deemed to be used wholly in the state in which the property has its principal base of operations.

(C) A motor vehicle will be deemed to be used wholly in the state in which it is registered.

(d) Interest from loans secured by real property.

(i) The numerator of the receipts factor includes interest and fees or penalties in the nature of interest from loans secured by real property if the property is located within this state. If the property is located both within this state and one or more other states, the receipts described in this subsection are included in the numerator of the receipts factor if more than fifty percent of the fair market value of the real property is located within this state. If more than fifty percent of the fair market value of the real property is not located within any one state, the receipts described in this subsection shall be included in the numerator of the receipts factor if the borrower is located in this state.

(ii) The determination of whether the real property securing a loan is located within this state shall be made as of the time the original agreement was made, and any and all subsequent substitutions of collateral shall be disregarded.

(e) Interest from loans not secured by real property. The numerator of the receipts factor includes interest and fees or penalties in the nature of interest from loans not secured by real property if the borrower is located in this state.

(f) Net gains from the sale of loans. The numerator of the receipts factor includes net gains from the sale of loans. Net gains from the sale of loans includes income recorded under the coupon stripping rules of Section 1286 of the Internal Revenue Code.

(i) The amount of net gains, but not less than zero, from the sale of loans secured by real property included in the numerator is determined by multiplying the net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to Subsection (3)(d), and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(ii) The amount of net gains, but not less than zero, from the sale of loans not secured by real property included in the numerator is determined by multiplying the net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to Subsection (3)(e), and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(g) Receipts from credit card receivables. The numerator of the receipts factor includes interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees, if the billing address of the card holder is in this state.

(h) Net gains from the sale of credit card receivables. The numerator of the receipts factor includes net gains, but not less than zero, from the sale of credit card receivables multiplied by a fraction, the numerator of which is the amount included in the numerator of the receipts factor pursuant to Subsection (3)(g), and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(i) Credit card issuer's reimbursement fees. The numerator of the receipts factor includes all credit card issuer's reimbursement fees multiplied by a fraction, the numerator of which is the amount included in the numerator of the receipts factor pursuant to Subsection (3)(g), and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(j) Receipts from merchant discount. The numerator of the receipts factor includes receipts from merchant discount if the commercial domicile of the merchant is in this state. The receipts shall be computed net of any cardholder charge backs, but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders.

(k) Loan servicing fees.

(i) The numerator of the receipts factor includes loan servicing fees derived from loans secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to Subsection (3)(d), and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(ii) The numerator of the receipts factor includes loan servicing fees derived from loans not secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to Subsection (3)(e), and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(iii) In circumstances in which the taxpayer receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the receipts factor shall include those fees if the borrower is located in this state.

(l) Receipts from services. The numerator of the receipts factor includes receipts from services not otherwise apportioned under this section if the [~~service is performed in this state. If the service is performed both within and without this state, the numerator of the receipts factor includes receipts from services not otherwise apportioned under this section if a greater proportion of the income-producing activity is performed in this state based on cost of performance~~]purchaser of the services receives a greater benefit of the service in this state than in any other state.

(m) Receipts from investment assets and activities and trading assets and activities.

(i) Interest, dividends, net gains, but not less than zero, and other income from investment assets and activities and from trading assets and activities shall be included in the receipts factor.

(ii) Investment assets and activities and trading assets and activities include investments securities, trading account assets, federal funds, securities purchased and sold under agreements to resell or repurchase, options, futures contracts, forward contracts, notional principal contracts such as swaps, equities, and foreign currency transactions.

(iii) The receipts factor shall include the following investment and trading assets and activities:

(A) The receipts factor shall include the amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements.

(B) The receipts factor shall include the amount by which interest, dividends, gains and other income from trading assets and activities, including assets and activities in the matched book and arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from those assets and activities.

(iv) The numerator of the receipts factor includes interest, dividends, net gains, but not less than zero, and other income from investment assets and activities and from trading assets and activities described in Subsection (3)(m) that are attributable to this state.

(A) The amount of interest, dividends, net gains, but not less than zero, and other income from investment assets and activities in the investment accounts attributed to this state and included in the numerator is determined by multiplying all such income from assets and activities by a fraction, the numerator of which is the average value of the assets properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all those assets.

(B) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this state and included in the numerator is determined by multiplying the amount of those funds and securities described in Subsection (3)(m)(iii)(A) by a fraction, the numerator of which is the average value of federal funds sold and securities purchased under agreements to resell that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all those funds and securities.

(C) The amount of interest, dividends, gains, and other income from trading assets and activities, including assets and activities in the matched book and arbitrage book and foreign currency transactions, but excluding amounts described in Subsections (3)(m)(iv)(A) and (3)(m)(iv)(B), attributable to this state and included in the numerator is determined by multiplying the amount described in Subsection (3)(m)(iii)(B) by a fraction, the numerator of which is the average value of those trading assets that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all those assets.

(D) For purposes of this subsection, average value shall be determined using the rules for determining the average value of tangible personal property set forth in Subsections (4)(c) and (d).

(v) In lieu of using the method set forth in Subsection (3)(m)(iv), the taxpayer may elect, or the [~~Tax Commission~~]commission may require in order to fairly represent the business activity of the taxpayer in this state, the use of the method set forth in this subsection.

(A) The amount of interest, dividends, net gains, but not less than zero, and other income from investment assets and activities in the investment account attributed to this state and included in the numerator is determined by multiplying all income from those assets and activities by a fraction, the numerator of which is the gross income from those assets and activities properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all those assets and activities.

(B) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this state and included in the numerator is determined by multiplying the amount of those funds and securities described in Subsection (3)(m)(iii)(A) by a fraction, the numerator of which is the gross income from those funds and securities properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all those funds and securities.

(C) The amount of interest, dividends, gains and other income from trading assets and activities, including assets and activities in the matched book and arbitrage book and foreign currency transactions, but excluding amounts described in Subsections (3)(m)(v)(A) or (B), attributable to this state and included in the numerator is determined by multiplying the amount described in Subsection (3)(m)(iii)(B) by a fraction, the numerator of which is the gross income from those trading assets and activities properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all those assets and activities.

(vi) If the taxpayer elects or is required by the [~~Tax Commission~~]commission to use the method set forth in Subsection (3)(m)(v), the taxpayer shall use this method on all subsequent returns unless the taxpayer receives prior permission from the [~~Tax Commission~~]commission to use, or the [~~Tax Commission~~]commission requires, a different method.

(vii) The taxpayer shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside of this state by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this state.

Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one regular place of business and one regular place of business is in this state and one regular place of business is outside this state, that asset or activity shall be considered to be located at the regular place of business of the taxpayer where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the taxpayer demonstrates to the contrary, policies and guidelines shall be presumed to be established at the commercial domicile of the taxpayer.

(n) All other receipts. The numerator of the receipts factor includes all other receipts pursuant to the rules set forth in Rule R865-6F-8[~~(9)~~](10) and [~~(10)~~](11).

(o) Attribution of certain receipts to commercial domicile.

(i) Except as provided in Subsection (3)(o)(ii), all receipts that would be assigned under this section to a state in which the taxpayer is not taxable shall be included in the numerator of the receipts factor if the taxpayer's commercial domicile is in this state.

(ii)(A) If a unitary group includes one or more financial institutions, and if any member of the unitary group is subject to the taxing jurisdiction of this state, the receipts of each financial institution in the unitary group shall be included in the numerator of this state's receipts factor as provided in Subsections (3)(a) through (n) rather than being attributed to the commercial domicile of the financial institution as provided in Subsection (3)(o)(i).

(B) If a unitary group includes one or more financial institutions whose commercial domicile is in this state, and if any member of the unitary group is taxable in another state under section 59-7-305, the receipts of each financial institution in the unitary group that would be included in the numerator of the other state's receipts factor under Subsections (3)(a) through (n) may not be included in the numerator of this state's receipts factor.

(4) Property Factor.

(a) In General.

(i) For taxpayers that do not elect to include the property described in Subsections (4)(g) through (i) within the property factor, the property factor is a fraction, the numerator of which is the average value of real property and tangible personal property owned by or rented to the taxpayer that is located or used within this state during the taxable year, and the denominator of which is the average value of all that property located or used within and without this state during the taxable year.

(ii) For taxpayers that elect to include the property described in Subsections (4)(g) through (i) within the property factor, the property factor is a fraction, the numerator of which is the average value of real property and tangible personal property owned by or rented to the taxpayer that is located or used within this state during the taxable year, and the average value of the taxpayer's loans and credit card receivables that are located within this state during the taxable year, and the denominator of which is the average value of all that property located or used within and without this state during the taxable year.

(b) Property included. The property factor shall include only property the income or expenses of which are included, or would have been included if not fully depreciated or expensed, or depreciated or expensed to a nominal amount, in the computation of the apportionable income base for the taxable year.

(c) Value of property owned by the taxpayer.

(i) For taxpayers that do not elect to include the property described in Subsections (4)(g) through (i) within the property factor, the value of real property and tangible personal property owned by the taxpayer is the original cost or other basis of that property for federal income tax purposes without regard to depletion, depreciation or amortization.

(ii) For taxpayers that elect to include the property described in Subsections (4)(g) through (i) within the property factor:

(A) The value of real property and tangible personal property owned by the taxpayer is the original cost or other basis of that property for federal income tax purposes without regard to depletion, depreciation or amortization.

(B) Loans are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a loan is charged-off in whole or in part for federal income tax purposes, the portion of the loan charged off is not outstanding. A specifically allocated reserve established pursuant to regulatory or financial accounting guidelines that is treated as charged-off for federal income tax purposes shall be treated as charged-off for purposes of this rule.

(C) Credit card receivables are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a credit card receivable is charged-off in whole or in part for federal income tax purposes, the portion of the receivable charged-off is not outstanding.

(d) Average value of property owned by the taxpayer. The average value of property owned by the taxpayer is computed on an annual basis by adding the value of the property on the first day of the taxable year and the value on the last day of the taxable year and dividing the sum by two.

(i) If averaging on this basis does not properly reflect average value, the [~~Tax Commission~~]commission may require averaging on a more frequent basis, or the taxpayer may elect to average on a more frequent basis.

(ii) When averaging on a more frequent basis is required by the [~~Tax Commission~~]commission or is elected by the taxpayer, the same method of valuation must be used consistently by the taxpayer with respect to property within and without this state and on all subsequent returns unless the taxpayer receives prior permission from the [~~Tax Commission~~]commission to use a different method, or the [~~Tax Commission~~]commission requires a different method of determining average value.

(e) Average value of real property and tangible personal property rented to the taxpayer.

(i) The average value of real property and tangible personal property that the taxpayer has rented from another and are not treated as property owned by the taxpayer for federal income tax purposes, shall be determined annually by multiplying the gross rents payable during the taxable year by eight.

(ii) If the use of the general method described in this subsection results in inaccurate valuations of rented property, any other method that properly reflects the value may be adopted by the [~~Tax Commission~~]commission or by the taxpayer when approved in writing by the [~~Tax Commission~~]commission. Once approved, that other method of valuation must be used on all subsequent returns unless the taxpayer receives prior approval from the [~~Tax Commission~~]commission to use a different method, or the [~~Tax Commission~~]commission requires a different method of valuation.

(f) Location of real property and tangible personal property owned or rented to the taxpayer.

(i) Except as described in Subsection (4)(f)(ii), real property and tangible personal property owned by or rented to the taxpayer are considered located within this state if they are physically located, situated, or used within this state.

(ii) Transportation property is included in the numerator of the property factor to the extent that the property is used in this state.

(A) The extent an aircraft will be deemed to be used in this state and the amount of value that shall be included in the numerator of this state's property factor is determined by multiplying the average value of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft everywhere.

(B) If the extent of the use of any transportation property within this state cannot be determined, the property will be deemed to be used wholly in the state in which the property has its principal base of operations.

(C) A motor vehicle will be deemed to be used wholly in the state in which it is registered.

(g) Location of Loans.

(i) A loan is considered located within this state if it is properly assigned to a regular place of business of the taxpayer within this state.

(ii) A loan is properly assigned to the regular place of business with which it has a preponderance of substantive contacts. A loan assigned by the taxpayer to a regular place of business without the state shall be presumed to have been properly assigned if:

(A) the taxpayer has assigned, in the regular course of its business, the loan on its records to a regular place of business consistent with federal or state regulatory requirements;

(B) the assignment on its records is based upon substantive contacts of the loan to the regular course of business; and

(C) the taxpayer uses the records reflecting assignment of loans for the filing of all state and local tax returns for which an assignment of loans to a regular place of business is required.

(iii) The presumption of proper assignment of a loan provided in Subsection (4)(g)(ii) may be rebutted upon a showing by the [~~Tax Commission~~]commission, supported by a preponderance of the evidence, that the preponderance of substantive contacts regarding the loan did not occur at the regular place of business to which it was assigned on the taxpayer's records. When the presumption has been rebutted, the loan shall then be located within this state if:

(A) the taxpayer had a regular place of business within this state at the time the loan was made; and

(B) the taxpayer fails to show, by a preponderance of the evidence, that the preponderance of substantive contacts regarding the loan did not occur within this state.

(iv) In the case of a loan assigned by the taxpayer to a place without this state that is not a regular place of business, it shall be presumed, subject to rebuttal by the taxpayer on a showing supported by the preponderance of the evidence, that the preponderance of substantive contacts regarding the loan occurred within this state if, at the time the loan was made the taxpayer's commercial domicile, as defined in this rule, was within this state.

(v) To determine the state in which the preponderance of substantive contacts relating to a loan have occurred, the facts and circumstances regarding the loan at issue shall be reviewed on a case-by-case basis, and consideration shall be given to activities such as the solicitation, investigation, negotiation, approval, and administration of the loan.

(A) Solicitation. Solicitation is either active or passive.

(I) Active solicitation occurs when an employee of the taxpayer initiates the contact with the customer. The activity is located at the regular place of business at which the taxpayer's employee is regularly connected or working out of, regardless of where the services of the employee were actually performed.

(II) Passive solicitation occurs when the customer initiates the contact with the taxpayer. If the customer's initial contact was not at a regular place of business of the taxpayer, the regular place of business, if any, where the passive solicitation occurred is determined by the facts in each case.

(B) Investigation. Investigation is the procedure whereby employees of the taxpayer determine the credit-worthiness of the customer as well as the degree of risk involved in making a particular agreement. The activity is located at the regular place of business at which the taxpayer's employees are regularly connected or working out of, regardless of where the services of those employees were actually performed.

(C) Negotiation. Negotiation is the procedure whereby employees of the taxpayer and its customer determine the terms of the agreement, such as amount, duration, interest rate, frequency of repayment, currency denomination, and security required. The activity is located at the regular place of business at which the taxpayer's employees are regularly connected or working out of, regardless of where the services of those employees were actually performed.

(D) Approval. Approval is the procedure whereby employees or the board of directors of the taxpayer make the final determination whether to enter into the agreement.

(I) The activity is located at the regular place of business at which the taxpayer's employees are regularly connected or working out of, regardless of where the services of those employees were actually performed.

(II) If the board of directors makes the final determination, the activity is located at the commercial domicile of the taxpayer.

(E) Administration. Administration is the process of managing the account.

(I) Administration includes bookkeeping, collecting the payments, corresponding with the customer, reporting to management regarding the status of the agreement and proceeding against the borrower or the security interest if the borrower is in default.

(II) The activity is located at the regular place of business that oversees this activity.

(h) Location of credit card receivables. For purposes of determining the location of credit card receivables, credit card receivables shall be treated as loans and shall be subject to the provisions of Subsection (4)(g).

(i) Period for which properly assigned loan remains assigned. A loan that has been properly assigned to a state shall, absent any change of material fact, remain assigned to that state for the length of the original term of the loan. Thereafter, the loan may be properly assigned to another state if the loan has a preponderance of substantive contact to a regular place of business in that state.

(j) Each taxpayer shall make an initial election on whether to include the property described in Subsections (4)(g) through (i) within the property factor. The initial election is the election made or the filing position taken on the first return filed after the effective date of this rule. This election is irrevocable for a period of three years from the time the initial election is made, except in the case where a substantial ownership change occurs and commission approval is obtained to change the election. After the initial three-year period, the election may be revocable only with the prior approval of the commission and shall require the showing of a significant change in circumstance.

(5) Payroll factor.

(a) In general. The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the taxable year by the taxpayer for compensation and the denominator of which is the total compensation paid by the taxpayer both within and without this state during the taxable year. The payroll factor shall include only that compensation included in the computation of the apportionable income tax base for the taxable year.

(b) Compensation relating to nonbusiness income and independent contractors. The compensation of any employee for services or activities connected with the production of nonbusiness income, and payments made to any independent contractor or any other person not properly classifiable as an employee, shall be excluded from both the numerator and denominator of this factor.

(c) When compensation paid in this state. Compensation is paid in this state if any one of the following tests, applied consecutively, is met:

(i) The employee's services are performed entirely within this state.

(ii) The employee's services are performed both within and without the state, but the service performed without the state is incidental to the employee's service within the state. The term "incidental"means any service that is temporary or transitory in nature, or that is rendered in connection with an isolated transaction.

(iii) If the employee's services are performed both within and without this state, the employee's compensation will be attributed to this state:

(A) if the employee's principal base of operations is within this state;

(B) if there is no principal base of operations in any state in which some part of the services are performed, but the place from which the services are directed or controlled is in this state; or

(C) if the principal base of operations and the place from which the services are directed or controlled are not in any state in which some part of the service is performed but the employee's residence is in this state.

(6) This rule is effective for taxable years beginning after December 31, 1997.

KEY: taxation, franchises, historic preservation, trucking industries
Date of Enactment or Last Substantive Amendment: [~~August 10,~~]2010
Notice of Continuation: March 8, 2007
Authorizing, and Implemented or Interpreted Law: 59-7-302 through 59-7-321

Tax Commission, Auditing
R865-6F-33
Taxation of Telecommunications Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34083
FILED: 09/15/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment updates references to another Tax Commission rule section and repeals outdated language.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment updates references to Section R865-6F-8. The proposed amendment also repeals language providing that the apportionment fraction is the total of the property, payroll, and sales percentages divided by three, since there are now alternative methods of determining the apportionment fraction.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-7-302 through 59-7-321

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The amendment is cost neutral because it consists only of updating references and removing confusing language.
♦ LOCAL GOVERNMENTS: The amendment is cost neutral because it consists only of updating references and removing confusing language.
♦ SMALL BUSINESSES: The amendment is cost neutral because it consists only of updating references and removing confusing language.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The amendment is cost neutral because it consists only of updating references and removing confusing language.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendment is cost neutral because it consists only of updating references and removing confusing language.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None anticipated.

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

TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Michael Cragun by phone at 801-297-3907, by FAX at 801-297-3919, or by Internet E-mail at mcragun@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/15/2010

THIS RULE MAY BECOME EFFECTIVE ON: 11/22/2010

AUTHORIZED BY: R. Bruce Johnson, Tax Commission Chair

R865. Tax Commission, Auditing.
R865-6F. Franchise Tax.
R865-6F-33. Taxation of Telecommunications Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321.

(1) Definitions.

(a) "Call" means a specific telecommunications transmission as described in Subsection (1)(f).

(b) "Channel termination point" means the point at which information can enter or leave the telecommunications network.

(c) "Communications channel" means a communications path, which can be one-way or two-way, depending on the channel, between two or more points. The path may be designed for the transmission of signals representing human speech, digital or analog data, facsimile, or images.

(d) "Outerjurisdictional property" means tangible personal property, such as orbiting satellites, undersea transmission cables and the like, that are owned or rented by the taxpayer and used in a telecommunications business, but that are not physically located in any particular state.

(e) "Private telecommunications service" means a dedicated telephone service that entitles the subscriber to the exclusive or priority use of a communications channel or groups of communications channels from one or more channel termination points to another channel termination point.

(f) "Telecommunications" means the electronic transmission of voice, data, image, and other information through the use of any medium such as wires, cables, electromagnetic waves, light waves, or any combination of those or similar media now in existence or that might be devised, but telecommunications does not include the information content of any such transmission.

(g) "Telecommunications service" means providing telecommunications, including services provided by telecommunication service resellers, for a charge and includes telephone service, telegraph service, paging service, personal communication services and mobile or cellular telephone service, but does not include electronic information service or Internet access service.

(2) Apportionment and Allocation.

(a) A corporation engaged in the business of telecommunications that is taxable both within and without this state, shall allocate and apportion its net income as provided in this rule. All items of nonbusiness income shall be allocated pursuant to the provisions of Section 59-7-306.

[~~(b) All business income shall be apportioned to this state by multiplying that income by the apportionment percentage. The apportionment percentage is determined by adding the taxpayer's receipts factor, property factor and payroll factor and dividing that sum by three. If one of the factors is missing, the remaining factors are added and that sum is divided by two. If two of the factors are missing, the remaining factor is the apportionment percentage. A factor is missing if both its numerator and denominator are zero.~~

~~(c)~~](b) The fraction by which business income shall be apportioned to the state shall be determined in accordance with rule R865-6F-8[~~(3)~~](4) and [~~(6)~~](7). Except as otherwise provided in this rule, the property factor shall be determined in accordance with R865-6F-8[~~(7)~~](8), the payroll factor in accordance with R865-6F-8[~~(8)~~](9) and the sales factor in accordance with R865-6F-8[~~(9)~~](10).

(3)(a) Property Factor.

(b) Outerjurisdictional property that is used by a taxpayer in providing a telecommunications service shall be attributed to this state based on the ratio of property within this state used in providing that service, to property everywhere used in providing the service, exclusive of property not located in any state. The term "property" as used herein refers to property includable in the property factor of the Utah apportionment fraction as defined in [~~Tax Commission~~]commission rule R865-6F-8[~~(7)~~](8).

(4) Sales Factor Numerator.

(a) The following sales and receipts from telecommunications service other than interstate or international private telecommunications service, shall be included in the Utah sales and receipts numerator:

(i) receipts derived from charges for providing telephone "access" from a location within Utah. "Access" means that a call can be made or received from a point within this state. An example of this type of receipt is a monthly subscriber fee billed with reference to equipment located in Utah;

(ii) receipts derived from charges for unlimited calling privileges, if the charges are billed by reference to equipment located in Utah;

(iii) receipts derived from charges for individual toll calls that originate and terminate in Utah;

(iv) receipts derived from charges for individual toll calls that either originate or terminate in Utah and are billed by reference to a customer or equipment located in Utah;

(v) receipts derived from any other charges if the charges are not includable in another state's sales factor numerator under that state's law, and the customer's billing address is in Utah.

(b) Gross receipts derived from providing interstate and international private telecommunications services shall be determined as follows:

(i) If the segment of the interstate or international channel between each termination point is separately billed, 100 percent of the charge imposed at each termination point in this state and for service in this state between those points is includable in the Utah sales factor. In addition, 50 percent of the charge imposed for service between a channel termination point outside this state and a point inside the state shall be included in the Utah sales factor. For purposes of this paragraph, termination points shall be measured by the nearest termination point inside the state to the first termination point outside the state.

(ii) If each segment of the interstate or international channel is not separately billed, the Utah sales shall be the same portion of the interstate or international channel charge that the number of channel termination points within this state bears to the total number of channel termination points within and without this state.

KEY: taxation, franchises, historic preservation, trucking industries
Date of Enactment or Last Substantive Amendment: [~~August 12,~~]2010
Notice of Continuation: March 8, 2007
Authorizing, and Implemented or Interpreted Law: 59-7-302 through 59-7-321

Workforce Services, Employment Development
R986-200-247
Utah Back to Work Pilot Program (BWP)

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 34095
FILED: 09/15/2010

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to change the eligibility standards to allow more claimants and employers to participate.

SUMMARY OF THE RULE OR CHANGE: The original pilot program required that a claimant have 10 weeks left on his or her regular unemployment claim and have base period wages of not more than $7,800 in any quarter. The Department believes it can make this program available to more claimants and help them get back to work sooner if it basically drops those requirements. The Department will also allow participation for jobs where the employee earns tips provided the tips plus the wage equal $9 per hour.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 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. There will be no costs of any persons to comply with these changes because there are no costs or fees associated with these proposed changes. There may be a small savings to businesses if we are able to get employees back to work sooner.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There will be no costs to any persons to comply with these changes because this is a federally-funded program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no costs of any persons to comply with these changes because there are no costs or fees 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 11/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2010

AUTHORIZED BY: Kristen Cox, Executive Director

R986. Workforce Services, Employment Development.
R986-200. Family Employment Program.
R986-200-247. Utah Back to Work Pilot Program (BWP).

(1) BWP is a voluntary program providing short term subsidized employment for a maximum of three months to an eligible unemployment insurance (UI) claimant. To be eligible, a UI claimant must:

(a) be currently receiving UI benefits and have received at least one week of paid UI benefit. The waiting week is not considered a "paid" benefit for the purposes of this section;

(b) be legally eligible to work in the U.S. and be a U.S. citizen or meet the alienage requirements of R986-200-203;

(c) have at least 1[~~0~~] week[~~s~~] of [~~regular~~]UI benefits remaining on his or her claim. The [~~10~~]week[~~s do not include~~] can be Extended Benefits under 35A-4-402 or Emergency Unemployment Compensation (EUC) benefits as defined by the UI division;

(d) be the parent of at least one minor dependent child and be contributing to the financial support of that child or children;

[~~(c) have UI base period wages of not more than $7,800 in any quarter of the base period;~~

————]([~~f~~]c) have not worked for the employer where the claimant is to be hired under this program more than 40 hours in the 60 days immediately preceding the date of hire under the BWP program; and

([~~g~~]f) have not previously participated in the BWP or BWY program.

(2) The Utah Back to Work Youth Program (BWY) provides short term subsidized employment for a maximum of three months to unemployed youth 18-24 years of age. BWY youth must be legally eligible to work in the U.S. and be unemployed but do not need to be receiving or eligible to receive UI benefits. BWY youth do not need to be a parent but must meet the requirement of subsection (1)(f) and have not participated in the BWP or BWY program before.

(3) An employer eligible for a subsidy under this section is an employer that:

(a) is registered with the Department's UI division as an active employer in "good standing". For the purposes of this section, "good standing" means the employer has no delinquent UI contributions or reports;

(b) is a "qualified employer" under the "Hiring Incentives to Restore Employment Act" of 2010 which "means any employer other than the United States, any State, or any political subdivision" or instrumentality thereof. A public institution of higher education is considered a "qualified employer" for purposes of this section. The employer cannot be a Temporary Help Company as defined in R994-202-102 or a Professional Employer Organization as defined in R994-202-106;

(c) pays a wage of at least $9 per hour. Commission only jobs may qualify if the employer guarantees $9 per hour or more. employees who receive gratuities plus wages may qualify if the employer reports $9 per hour or more to the UI Contributions division;

(d) has not displaced or partially displaced existing workers by participating in this program;

(e) has at least one other employee;

(f) will provide the claimant with at least 35 hours work per week; and

(g) does not hire the claimant for temporary or seasonal work.

(4) Once it has been verified that a claimant has been hired, a qualified employer will be paid a $500 subsidy and an additional $1,500 subsidy at the conclusion of the third month of employment provided the required DWS invoices have been provided.

(5) BWP and BWY will continue for as long as funding is available.

KEY: family employment program
Date of Enactment or Last Substantive Amendment: [~~July 1~~], 2010
Notice of Continuation: September 14, 2005
Authorizing, and Implemented or Interpreted Law: 35A-3-301 et seq.

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 November 1, 2010.

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 January 29, 2011, 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

Insurance, Administration
R590-244
Individual and Agency Licensing Requirements

NOTICE OF CHANGE IN PROPOSED RULE
DAR FILE NO.: 33821
FILED: 09/14/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed due to suggestions received during the previous comment period.

SUMMARY OF THE RULE OR CHANGE: Section R590-244-4 is being changed to correct the number of days given to complete an application that is filed incomplete and for clarification purposes. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the August 1, 2010, issue of the Utah State Bulletin, on page 31. 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 31A-2-201 and Section 31A-23a-104 and Section 31A-23a-110 and Section 31A-23a-111 and Section 31A-23a-115 and Section 31A-23a-302 and Section 31A-25-201 and Section 31A-25-208 and Section 31A-26-202 and Section 31A-26-210 and Section 31A-26-213 and Section 31A-35-104 and Section 31A-35-301 and Section 31A-35-401 and Section 31A-35-406

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The previous change of 45 days to complete an incomplete submission was incorrect. It should have been 30 days, which is the current procedure being followed by the department.
♦ LOCAL GOVERNMENTS: This rule and its change will have no fiscal impact on local governments since the rule deals solely with the relationship between the department and its licensees.
♦ SMALL BUSINESSES: This rule change applies to individual and group licensees. Most of the group licensees are small employers. This will have no fiscal impact since it is already the procedure being followed by the department.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule change applies to individual and group licensees. Most of the group licensees are small employers. This will have no fiscal impact since it is already the procedure being followed by the department.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change applies to individual and group licensees. It will have no fiscal impact since this procedure is already being followed by the department.

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:
INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/01/2010

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2010

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-244. Individual and Agency Licensing Requirements.

. . . . . .

R590-244-4. Requirement to Electronically Submit License Applications, Appointments, Designations, and License Amendments.

(1) Except as otherwise provided in this rule the following shall be submitted electronically to the department using http://www.sircon.com/utah (SIRCON) or http://www.nipr.com/ (NIPR):

(a) all individual and agency license applications under chapters 23a, 25, 26, and 35 as prescribed in R590-244-6, 7, and 8 for:

(i) a new license;

(ii) an additional license type or line of authority;

(iii) a license renewal; or

(iv) a license reinstatement;

(b) all appointments, termination of appointments, designations, and terminations of designations as prescribed in R590-244-9 and 10;

(c) all miscellaneous license amendments pertaining to individual and agency licenses under Chapters 23a, 25, 26 and 35 as prescribed in R590-244-11;

(d) all documents related to reporting to the commissioner of criminal prosecution or administrative action taken against a licensee as required under Chapters 23a, 25, 26 and 35; and

(e) any additional documentation required in connection with an application, except as shown in (iv) below, including but not limited to:

(i) written explanation and documentation for positive responses to background questions on a license application;

(ii) evidence of meeting specific experience, bonding, or other requirements for certain license types or lines of authority; or

(iii) evidence of meeting continuing education requirements for a renewal or reinstatement application when there is a question regarding the number of course hours completed.

(iv) If an electronic attachment of a document required in connection with an application is not available in the attachment utility from SIRCON or NIPR, the document shall be submitted electronically via a facsimile or as a PDF attachment to an email, until such time that an electronic attachment of the document to the application becomes available from SIRCON or NIPR.

(2) Attestation. Submission of an electronic application or other form under this Rule constitutes the applicant's or submitter's attestation under penalties of perjury that the information contained in the application or form is true and correct.

(3) Any submission subject to this rule that does not comply with this rule, including an application that remains incomplete for a period of 30 days following the initial submission, may be rejected as incomplete and returned to the submitter without being processed, with any paid fees forfeited to the State.

. . . . . .

KEY: insurance licensing requirements
Date of Enactment or Last Substantive Amendment: 2010
Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-23a-104; 31A-23a-110; 31A-23a-111; 31A-23a-115; 31A-23a-302; 31A-25-201; 31A-25-208; 31A-26-202; 31A-26-210; 31A-26-213; 31A-35-104; 31A-35-301; 31A-35-401; 31A-35-406

End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the 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.

Human Services, Administration, Administrative Hearings
R497-100
Adjudicative Proceedings

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 34090
FILED: 09/15/2010

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: The Department of Human Services, Office of Administrative Hearings is given rulemaking authority pursuant to Section 62A-1-111. This rule describes the procedures for administrative hearings.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: There are ongoing administrative hearings which are required by law. This rule establishes definitions, legal requirements, and procedures for the adjudicative proceedings. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE HEARINGS
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ 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: Palmer DePaulis, Executive Director

EFFECTIVE: 09/15/2010

Insurance, Administration
R590-130
Rules Governing Advertisements of Insurance

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 34079
FILED: 09/15/2010

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE

OR REQUIRE THE RULE: Subsection 31A-2-201(3) allows the commissioner to make rules to implement the provisions of the insurance code. Section 31A-23a-402 authorizes the commissioner to define unfair or deceptive acts or practices in the business of insurance. The rule sets advertising guidelines to assure clear and truthful disclosure of the benefits, limitations, and exclusions of policies sold as insurance and sets procedures for enforcement by the department of this rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no written comment regarding this rule in the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary because licensees are still using misleading and deceptive information and advertising in the sale of insurance. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 09/15/2010

Insurance, Title And Escrow Commission
R592-1
Title Insurance Licensing

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34078
FILED: 09/15/2010

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: Subsections 31A-2-404(2)(a)(ii) and (b) direct the Title and Escrow Commission to make rules pertaining to the licensing of a title licensee and require the concurrence of the Commission in the issuance and renewal of title licensee licenses.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law requires that the Title and Escrow Commission concur with the commissioner in the issuance and renewal of title licenses. The rule sets the procedure to do this. This has been a useful process because it has opened a dialogue between the department and members of the title industry who know the players and if there are issues and concerns that should be addressed regarding licensure. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
TITLE AND ESCROW COMMISSION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 09/15/2010

Insurance, Title And Escrow Commission
R592-2
Title Insurance Administrative Hearings and Penalty Imposition

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34077
FILED: 09/15/2010

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: Subsections 31A-2-404(2)(e) and (h) provide the process for conducting or delegating a title administrative hearing and imposing a penalty for a violation of statute or rule. The rule establishes procedures for the Title and Escrow Commission to delegate authority to the department's administrative law judge to conduct administrative hearings for title license applicants, licensees, or a title continuing education program, or to administer the hearing themselves. The rule also establishes procedures for the Commission and the department to concur with penalties imposed on a title licensee.

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 rule has been amended twice during the past five years. Changes were made in 2006. No hearing was held and no comments were received. In 2009, additional changes were made to the rule. No written comments were 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 clarifies the relationship between the Commission and the administrative law judge (ALJ). It sets forth the procedure for conducting a formal or informal hearing and imposing penalties, as well as how these matters are delegated by the Commission to the ALJ. The rule notes that the party not actually hearing the case has concurrence authority to accept or reject the recommended penalty imposed by the other party. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
TITLE AND ESCROW COMMISSION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 09/15/2010

Labor Commission, Industrial Accidents
R612-6
Notification of Workers' Compensation Insurance Coverage

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34057
FILED: 09/03/2010

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 34A-1-104 gives the Labor Commission authority to establish rules to administer the Workers' Compensation Act. As part of the Workers' Compensation Act, Section 34A-2-205 establishes that every insurance carrier writing workers' compensation insurance coverage must notify the Commission of that coverage.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during and since the last five-year review of 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 Labor Commission continues to have jurisdiction over workers' compensation insurance coverage. This rule establishes the methods for insurance carriers to notify the Commission of the employer for whom each carrier is providing coverage and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
LABOR COMMISSION
INDUSTRIAL ACCIDENTS
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Ron Dressler by phone at 801-530-6841, by FAX at 801-530-6804, or by Internet E-mail at rdressler@utah.gov

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 09/03/2010

Workforce Services, Employment Development
R986-100
Employment Support Programs

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34060
FILED: 09/08/2010

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Section 35A-1-303 authorizes the Department to adopt rules governing adjudicative procedures. The Department has the authority to make rules to establish eligibility for Family Employment Program under Subsection 35A-3-302(5)(b). Subsection 35A-3-310(3) gives the Department the authority to determine eligibility for child care. This rule establishes eligibility and rights and responsibilities for clients and the Department in the administration of public assistance programs. The rules are necessary to establish how hearings will be conducted, when information can be released, residency and citizenship criteria, how to apply for assistance, how overpayments are established and collected, and a client's obligations while on public assistance.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any comments during the last five-year period.

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 essential to administer federal- and state-funded public assistance programs including food stamps, financial assistance, and child care assistance. Without these rules, neither the Department nor the client would know how to access assistance, how to appeal a denial, when information can be released, what constitutes an overpayment and the sanctions for an overpayment and other eligibility criteria for public assistance programs. Therefore, this rule should be continued.

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

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 09/08/2010

Workforce Services, Employment Development
R986-200
Family Employment Program

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34061
FILED: 09/08/2010

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Authority to make rules to establish eligibility for Family Employment Program (FEP) is found in Subsection 35A-3-302(5)(b). The FEP is authorized by the state legislature and funded primarily by the federal government. The Department is authorized to establish eligibility criteria and rules for the program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written comments since the last five-year review.

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 establish eligibility and rules for FEP and other Temporary Assistance for Needy Families (TANF)-funded programs. Without this rule, clients and the Department would not know when a client is eligible, how to determine the amount of the payment, and what a client must do to remain eligible. Therefore, this rule should be continued.

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

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 09/08/2010

OPPOSING THE RULE: The Department has not received any written comments during the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule establishes eligibility for refugee resettlement funds and assistance. As the legislature has directed the Department to provide these services, with federal funding, eligibility criteria are essential to insure the Department is in compliance with federal regulation. Therefore, this rule should be continued.

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

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 09/08/2010

Workforce Services, Employment Development
R986-300
Refugee Resettlement Program

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34062
FILED: 09/08/2010

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-3-103(9) directs the Department to provide refugee resettlement services.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR

Workforce Services, Employment Development
R986-400
General Assistance

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34063
FILED: 09/08/2010

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-3-401 authorizes the Department to provide cash assistance to General Assistance clients. 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.

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 had to restrict the availability of the program due to budget cutbacks over the last five years. The Department received written comments expressing regret that the cuts had to occur. No other 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 determine eligibility for General Assistance, participation requirements and consequences for failure to comply. Therefore, this rule should be continued.

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

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 09/08/2010

Workforce Services, Employment Development
R986-500
Adoption Assistance

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34064
FILED: 09/08/2010

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-3-308 authorizes the Department to offer adoption services and mandates certain services. 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. The rule is necessary to establish eligibility criteria for the program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written comments during the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to establish eligibility criteria for clients who may want to participate in adoption assistance. Some elements of the program are are permissive and some are mandatory under Section 35A-3-308. Therefore, this rule should be continued.

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

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 09/08/2010

Workforce Services, Employment Development
R986-600
Workforce Investment Act

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34065
FILED: 09/08/2010

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 35A, Chapter 5 authorizes and encourages the Department to apply for and provide

retraining, community assistance, or technology transfer funds under the Workforce Investment Act and other federal sources to provide services for our clients. 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.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written comments 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 is necessary to establish eligibility criteria for funding available for training and education and to establish minimum standards for training providers. Therefore, this rule should be continued.

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

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 09/08/2010

Workforce Services, Employment Development
R986-700
Child Care Assistance

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34066
FILED: 09/08/2010

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-3-310(3) authorizes the Department to determine eligibility for child care. Subsection 35A-3-310(1) provides for child care assistance for eligible clients.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written comments during the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to establish eligibility criteria for child care assistance and regulate the payment of that assistance to clients and providers. Therefore, this rule should be continued.

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

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 09/08/2010

Workforce Services, Employment Development
R986-800
Displaced Homemaker Program

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34067
FILED: 09/08/2010

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-3-114 directs the Department to provide a program for the education, training, and transitional counseling of displaced homemakers. 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.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written comments 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 is necessary to provide notice to the community of what services are available for displaced homemakers as required by state law. Therefore, this rule should be continued.

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

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 09/08/2010

Workforce Services, Employment Development
R986-900
Food Stamps

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34068
FILED: 09/08/2010

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Section 35A-3-103 authorizes the Department to establish eligibility for public assistance and food stamps.

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 received several written comments when it amended the rule to change the way eligibility is established for household with legal citizens and undocumented aliens living in the same household. Most of the public comments supported the change.

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 administer the food stamp program which is funded by the federal government. The rule adopts the federal eligibility standards and lists waivers and options obtained by or taken by the Department. Without the rule, eligibility could not be determined. Therefore, this rule should be continued.

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

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 09/08/2010

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

Commerce
Occupational and Professional Licensing
No. 33811 (AMD): R156-38a. Residence Lien Restriction and Lien Recovery Fund Rule
Published: 08/01/2010
Effective: 09/09/2010

No. 33710 (AMD): R156-70a. Physician Assistant Practice Act Rule
Published: 07/01/2010
Effective: 09/13/2010

Health
Health Systems Improvement, Licensing
No. 33788 (AMD): R432-550. Birthing Centers (Five or Less Birth Rooms)
Published: 07/15/2010
Effective: 09/15/2010

Human Services
Child and Family Services
No. 33834 (AMD): R512-1. Description of Division Services, Eligibility, and Service Access
Published: 08/01/2010
Effective: 09/15/2010

No. 33823 (AMD): R512-2. Title IV-B Child Welfare/Family Preservation and Support Services and Title IV-E Foster Care, Adoption, and Independent Living
Published: 08/01/2010
Effective: 09/15/2010

No. 33824 (AMD): R512-11. Accommodation of Moral and Religious Beliefs and Culture
Published: 08/01/2010
Effective: 09/15/2010

No. 33833 (AMD): R512-41. Qualifying Adoptive Families and Adoption Placement
Published: 08/01/2010
Effective: 09/15/2010

No. 33825 (AMD): R512-43. Adoption Assistance
Published: 08/01/2010
Effective: 09/15/2010

No. 33826 (AMD): R512-75. Rules Governing Adjudication of Consumer Complaints
Published: 08/01/2010
Effective: 09/15/2010

Insurance
Administration
No. 33822 (NEW): R590-258. Email Address Requirement
Published: 08/01/2010
Effective: 09/08/2010

Public Safety
Fire Marshal
No. 33840 (AMD): R710-4. Buildings Under the Jurisdiction of the State Fire Prevention Board
Published: 08/01/2010
Effective: 09/07/2010

No. 33839 (AMD): R710-5. Automatic Fire Sprinkler System Inspecting and Testing
Published: 08/01/2010
Effective: 09/07/2010

No. 33838 (AMD): R710-6. Liquefied Petroleum Gas Rules
Published: 08/01/2010
Effective: 09/07/2010

No. 33836 (AMD): R710-9. Rules Pursuant to the Utah Fire Prevention Law
Published: 08/01/2010
Effective: 09/07/2010

Peace Officer Standards and Training
No. 33816 (R&R): R728-409. Suspension or Revocation of Peace Officer Certification
Published: 08/01/2010
Effective: 09/09/2010

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, 2010 through September 15, 2010. 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 (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (http://www.rules.utah.gov/).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
5YR = Five-Year Review

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
Administrative Rules					
R15-4	Administrative Rulemaking Procedures	33437	NSC	03/29/2010	Not Printed
Archives					
R17-7-3	Archives/ Research Room/Access to Records	33320	AMD	05/17/2010	2010-3/12
Debt Collection					
R21-3	Debt Collection Through Administrative Offset	33564	NSC	07/01/2010	Not Printed
R21-3	Debt Collection Through Administrative Offset	33778	NSC	07/26/2010	Not Printed
Facilities Construction and Management					
R23-1	Procurement of Construction	33621	AMD	07/08/2010	2010-11/6
R23-2-15	Negotiation and Appointment	33766	NSC	07/01/2010	Not Printed
R23-7	State Construction Contracts and Drug and Alcohol Testing	33622	NEW	07/08/2010	2010-11/16
R23-22	General Procedures for Acquisition and Selling of Real Property	33623	AMD	07/08/2010	2010-11/19
R23-22-7	Requirements for the Disposition of Real Property by DFCM	33683	NSC	07/08/2010	Not Printed
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	33634	AMD	07/08/2010	2010-11/23
R23-26	Dispute Resolution	33360	5YR	02/01/2010	2010-4/79
Finance					
R25-7	Travel-Related Reimbursements for State Employees	33618	AMD	08/01/2010	2010-11/26
R25-7-10	Reimbursement for Transportation	33302	AMD	04/21/2010	2010-3/12
Fleet Operations, Surplus Property					
R28-2	Surplus Firearms	33706	AMD	08/19/2010	2010-13/4
Purchasing and General Services					
R33-3	Source Selection and Contract Formulation	33650	AMD	07/08/2010	2010-11/28
R33-5	Construction and Architect-Engineer Selection	33635	AMD	07/08/2010	2010-11/35
R33-10	State Construction Contracts and Drugs and Alcohol Testing	33656	NEW	07/08/2010	2010-11/44
Records Committee					
R35-1-4	Committee Minutes	33335	AMD	05/17/2010	2010-4/16
R35-1-4	Committee Minutes	33436	NSC	05/17/2010	Not Printed
R35-1a	State Records Committee/Definitions	33399	5YR	02/22/2010	2010-6/35
Risk Management					
R37-1	Risk Management General Rules	33390	AMD	06/01/2010	2010-5/2
R37-2	Risk Management State Workers' Compensation Insurance Administration	33392	NSC	03/10/2010	Not Printed

R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	33393	AMD	06/01/2010	2010-6/6
AGRICULTURE AND FOOD					
Administration					
R51-1	Public Petitions for Declaratory Rulings	34029	5YR	08/31/2010	2010-18/109
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R58-7	Livestock Markets, Satellite Video Livestock Auction Market, Livestock Sales, Dealers and Livestock Market Weighpersons	33326	5YR	01/14/2010	2010-3/87
R58-10	Meat and Poultry Inspection	33329	5YR	01/14/2010	2010-3/87
R58-11	Slaughter of Livestock	33997	5YR	08/25/2010	2010-18/109
R58-12	Record Keeping and Carcass Identification at Meat Exempt (Custom Cut) Establishments	33996	5YR	08/25/2010	2010-18/110
R58-13	Custom Exempt Slaughter	33995	5YR	08/24/2010	2010-18/110
R58-15	Collection of Annual Fees for the Wildlife Damage Prevention Act	33999	5YR	08/25/2010	2010-18/111
R58-16	Swine Garbage Feeding	33994	5YR	08/24/2010	2010-18/112
R58-17	Aquaculture and Aquatic Animal Health	33327	5YR	01/14/2010	2010-3/88
R58-20-5	Facilities	33217	AMD	01/27/2010	2009-24/4
R58-21	Trichomoniasis	33340	5YR	01/27/2010	2010-4/79
Chemistry Laboratory					
R63-1	Fee Schedule	34012	5YR	08/26/2010	2010-18/112
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R65-1	Utah Apple Marketing Order	33993	5YR	08/24/2010	2010-18/113
R65-3	Utah Turkey Marketing Order	33992	5YR	08/24/2010	2010-18/113
R65-4	Utah Egg Marketing Order	33991	5YR	08/24/2010	2010-18/114
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R68-1	Utah Bee Inspection Act Governing Inspection of Bees	33998	5YR	08/25/2010	2010-18/114
R68-2	Utah Commercial Feed Act Governing Feed	33813	5YR	07/07/2010	2010-15/69
R68-6	Utah Nursery Act	33905	5YR	08/10/2010	2010-17/113
R68-7	Utah Pesticide Control Act	33080	AMD	01/04/2010	2009-22/5
R68-10	Quarantine Pertaining to European Corn Borer	33835	5YR	07/15/2010	2010-15/69
R68-12	Quarantine Pertaining to Mint Wilt	33677	5YR	05/27/2010	2010-12/69
R68-20	Utah Organic Standards	33315	5YR	01/12/2010	2010-3/89
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R70-101	Bedding, Upholstered Furniture and Quilted Clothing	33542	5YR	04/07/2010	2010-9/41
R70-610	Uniform Retail Wheat Standards of Identity	33894	5YR	08/05/2010	2010-17/113
R70-620	Enrichment of Flour and Cereal Products	33892	5YR	08/05/2010	2010-17/114
R70-910	Registration of Serviceperson for Commercial Weighing and Measuring Devices	33893	5YR	08/05/2010	2010-17/115
R70-950	Uniform National Type Evaluation	33891	5YR	08/05/2010	2010-17/115
ALCOHOLIC BEVERAGE CONTROL					
Administration					
R81-1-6	Violation Schedule	33729	AMD	09/01/2010	2010-13/5
R81-1-11	Multiple-Licensed Facility Storage and Service	33153	AMD	01/26/2010	2009-24/5
R81-1-26	Criminal History Background Checks	33154	AMD	01/26/2010	2009-24/6
R81-3-13	Operational Restrictions	33152	AMD	01/26/2010	2009-24/8
R81-4C-1	Licensing	33731	AMD	09/01/2010	2010-13/9
R81-4D-1	Licensing	33155	AMD	01/26/2010	2009-24/10
R81-4D-14	Reporting Requirement	33156	AMD	01/26/2010	2009-24/11

R81-4E	Resort Licenses	33157	NEW	01/26/2010	2009-24/12
R81-4E-4	Insurance	33339	NSC	02/11/2010	Not Printed
R81-7-1	Application Guidelines	33469	AMD	05/26/2010	2010-8/6
R81-10A-1	Licensing	33732	AMD	09/01/2010	2010-13/10
R81-10B-1	Application Guidelines	33504	AMD	05/26/2010	2010-8/7

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Administration

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R131-1	Procurement of Architectural and Engineering Services	33544	5YR	04/07/2010	2010-9/41
R131-1	Procurement of Architectural and Engineering Services	33543	NSC	04/26/2010	Not Printed
R131-2	Capitol Hill Complex Facility Use	33364	EXT	02/08/2010	2010-5/73
R131-2	Capitol Hill Complex Facility Use	33545	5YR	04/07/2010	2010-9/42
R131-2-11	Fees and Charges During Legislative Session	33151	AMD	01/07/2010	2009-23/6
R131-4	Capitol Preservation Board General Procurement Rule	33841	NSC	08/25/2010	Not Printed
R131-6	Board Designation of Space	33842	5YR	07/19/2010	2010-16/77
R131-7	State Capitol Preservation Board Master Planning Policy	33365	EXT	02/08/2010	2010-5/74
R131-7	State Capitol Preservation Board Master Planning Policy	33547	5YR	04/07/2010	2010-9/43
R131-7	State Capitol Preservation Board Master Planning Policy	33546	NSC	04/26/2010	Not Printed
R131-8	CPB Facilities and Grounds: Maintenance of Aesthetics	33405	EXT	02/24/2010	2010-6/43
R131-8	CPB Facilities and Grounds: Maintenance of Aesthetics	33549	5YR	04/07/2010	2010-9/43
R131-8	CPB Facilities and Grounds: Maintenance of Aesthetics	33548	NSC	04/26/2010	Not Printed
R131-9	State Capitol Preservation Board Art Program and Policy	33406	EXT	02/24/2010	2010-6/43
R131-9	State Capitol Preservation Board Art Program and Policy	33551	5YR	04/07/2010	2010-9/44
R131-9	State Capitol Preservation Board Art Program and Policy	33550	NSC	04/26/2010	Not Printed
R131-13	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	33844	EMR	07/19/2010	2010-16/69
R131-14	Parking on Capitol Hill	33298	NEW	02/22/2010	2010-2/4
R131-15	State Construction Contracts and Drug and Alcohol Testing	33846	EMR	07/19/2010	2010-16/72

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Administration

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R137-1	Grievance Procedure Rules	33796	NSC	07/26/2010	Not Printed
R137-2	Government Records Access and Management Act	33593	AMD	07/01/2010	2010-10/16

COMMERCE

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R151-1	Department of Commerce General Provisions	33336	5YR	01/25/2010	2010-4/80
R151-46b	Department of Commerce Administrative Procedures Act Rules	33150	AMD	01/07/2010	2009-23/7
R151-46b	Department of Commerce Administrative Procedures Act Rules	33616	AMD	07/12/2010	2010-11/46
R151-46b-5	General Provisions	33149	AMD	01/07/2010	2009-23/11
R151-46b-5	General Provisions	33667	AMD	07/22/2010	2010-12/4
R151-46b-11	Orders	33781	NSC	07/26/2010	Not Printed

Consumer Protection					
R152-1	Utah Division of Consumer Protection: "Buyer Beware List"	33583	5YR	04/28/2010	2010-10/165
R152-1-1	Purposes, Policies and Rules of Construction	33168	AMD	01/21/2010	2009-24/16
R152-11-1	Purposes, Rules of Construction	33169	AMD	01/21/2010	2009-24/17
R152-11-1	Purposes, Rules of Construction	33238	AMD	02/08/2010	2010-1/6
R152-11-5	Repairs and Services	33239	AMD	02/08/2010	2010-1/7
R152-23	Utah Health Spa Services	33771	AMD	08/09/2010	2010-13/13
R152-32a	Pawnshop and Secondhand Merchandise Transaction Information Act Rules	33768	AMD	08/09/2010	2010-13/17
R152-34-7	Rules Relating to the Operation of Proprietary Schools under Section 13-34-107	33773	AMD	08/09/2010	2010-13/18
R152-39	Child Protection Registry Rules	33598	5YR	04/29/2010	2010-10/165
Occupational and Professional Licensing					
R156-1	General Rule of the Division of Occupational and Professional Licensing	33227	AMD	03/25/2010	2009-24/18
R156-1	General Rule of the Division of Occupational and Professional Licensing	33641	AMD	07/08/2010	2010-11/49
R156-15	Health Facility Administrator Act Rules	33560	AMD	06/07/2010	2010-9/4
R156-17b	Pharmacy Practice Act Rule	33402	5YR	02/23/2010	2010-6/35
R156-17b	Pharmacy Practice Act Rule	33630	AMD	08/02/2010	2010-11/61
R156-20a	Environmental Health Scientist Act Rule	33812	5YR	07/06/2010	2010-15/70
R156-24b	Physical Therapy Practice Act Rule	33584	AMD	06/21/2010	2010-10/17
R156-31b	Nurse Practice Act Rule	33631	AMD	07/08/2010	2010-11/78
R156-31b-701a	Delegation of Nursing Tasks in a School Setting	33266	AMD	03/29/2010	2010-1/9
R156-31c	Nurse Licensure Compact Rule	33705	AMD	08/16/2010	2010-13/26
R156-37	Utah Controlled Substances Act Rules	33665	NSC	06/14/2010	Not Printed
R156-37-301	License Classifications - Restrictions	33264	AMD	02/08/2010	2010-1/11
R156-38a	Residence Lien Restriction and Lien Recovery Fund Rule	33307	5YR	01/07/2010	2010-3/90
R156-38a	Residence Lien Restriction and Lien Recovery Fund Rule	33811	AMD	09/09/2010	2010-15/4
R156-38b	State Construction Registry Rules	33366	5YR	02/08/2010	2010-5/69
R156-38b	State Construction Registry Rules	33736	AMD	08/16/2010	2010-13/27
R156-46b	Division Utah Administrative Procedures Act Rule	33639	AMD	07/08/2010	2010-11/91
R156-47b	Massage Therapy Practice Act Rule	33293	AMD	02/22/2010	2010-2/6
R156-47b-102	Definitions	33400	NSC	03/10/2010	Not Printed
R156-55a	Utah Construction Trades Licensing Act Rule	33737	AMD	08/16/2010	2010-13/30
R156-55d	Utah Construction Trades Licensing Act Burglar Alarm Licensing Rule	33409	5YR	02/25/2010	2010-6/36
R156-56	Utah Uniform Building Standard Act Rules	33566	AMD	07/01/2010	2010-10/21
R156-60a	Social Worker Licensing Act Rule	33615	AMD	07/08/2010	2010-11/94
R156-60b	Marriage and Family Therapist Licensing Act Rule	33735	AMD	08/16/2010	2010-13/39
R156-60c	Professional Counselor Licensing Act Rule	33306	5YR	01/07/2010	2010-3/90
R156-60d	Substance Abuse Counselor Act Rule	33783	AMD	08/24/2010	2010-14/4
R156-61	Psychologist Licensing Act Rule	33734	AMD	08/16/2010	2010-13/42
R156-64	Deception Detection Examiners Licensing Act Rule	33780	AMD	08/24/2010	2010-14/6
R156-70a	Physician Assistant Practice Act Rule	33710	AMD	09/13/2010	2010-13/45
R156-71-202	Naturopathic Physician Formulary	33552	AMD	08/16/2010	2010-9/7
R156-73-603	Standards for Practice of Animal Chiropractic	33712	NSC	07/01/2010	Not Printed
R156-77-102	Definitions	33263	AMD	02/08/2010	2010-1/12
R156-78	Vocational Rehabilitation Counselors Licensing Act Rule	33585	AMD	06/21/2010	2010-10/54
R156-78B-4	General Provisions	33175	AMD	01/21/2010	2009-24/28
R156-79	Hunting Guides and Outfitters Licensing Act Rule	33265	AMD	02/08/2010	2010-1/14
R156-80 (Changed to R156-80a)	Medical Language Interpreter Act Rule	33679	AMD	07/22/2010	2010-12/5
R156-83	Online Prescribing, Dispensing, and Facilitation Licensing Act Rule	33638	NEW	07/08/2010	2010-11/99
R156-83-101	Title	33814	NSC	07/28/2010	Not Printed

Real Estate					
R162-2-2	Licensing Procedure	33526	AMD	05/25/2010	2010-8/8
R162-2c	Utah Residential Mortgage Practices and Licensing Rules	33372	NEW	04/12/2010	2010-5/7
R162-2c	Utah Residential Mortgage Practices and Licensing Rules	33666	AMD	07/22/2010	2010-12/6
R162-2c-203	Utah-Specific Education Certification	33506	NSC	04/14/2010	Not Printed
R162-2c-203	Utah-Specific Education Certification	33793	AMD	08/23/2010	2010-14/9
R162-2c-204	License Renewal	33470	NSC	04/14/2010	Not Printed
R162-2c-301	Unprofessional Conduct	33471	NSC	04/14/2010	Not Printed
R162-2c-301	Unprofessional Conduct	33726	NSC	07/28/2010	Not Printed
R162-2c-401	Administrative Proceedings	33507	NSC	04/14/2010	Not Printed
R162-2c-402	Disciplinary Action	33792	AMD	08/23/2010	2010-14/13
R162-3	License Status Change	33565	AMD	06/21/2010	2010-10/56
R162-4-1	Records and Copies of Documents	33563	AMD	06/16/2010	2010-9/9
R162-101	Authority and Definitions	33158	AMD	01/27/2010	2009-24/29
R162-102	Application Procedures	33180	AMD	01/27/2010	2009-24/30
R162-104	Experience Requirement	33224	AMD	01/27/2010	2009-24/33
R162-105	Scope of Authority	33225	AMD	01/27/2010	2009-24/39
R162-106-1	Uniform Standards	33226	AMD	02/03/2010	2009-24/42
R162-106-7	Sales and Listing History	33398	AMD	04/28/2010	2010-6/7
R162-110	Trainee Registration	33148	NEW	01/07/2010	2009-23/13
R162-110-1	Trainee Registration	33303	NSC	01/28/2010	Not Printed
R162-201	Residential Mortgage Definitions	33373	REP	04/12/2010	2010-5/20
R162-202	Initial Application	33374	REP	04/12/2010	2010-5/21
R162-203	Changes to Residential Mortgage Licensure Statement	33375	REP	04/12/2010	2010-5/24
R162-204	Residential Mortgage Record Keeping Requirements	33376	REP	04/12/2010	2010-5/26
R162-205	Residential Mortgage Unprofessional Conduct	33377	REP	04/12/2010	2010-5/27
R162-207	License Renewal	33378	REP	04/12/2010	2010-5/29
R162-208	Continuing Education	33379	REP	04/12/2010	2010-5/31
R162-209	Administrative Proceedings	33380	REP	04/12/2010	2010-5/35
R162-210	Certification of Prelicensing Education Providers	33381	REP	04/12/2010	2010-5/37
R162-211	Adjusted License Terms	33382	REP	04/12/2010	2010-5/41
Securities					
R164-2	Investment Adviser - Unlawful Acts	33389	5YR	02/16/2010	2010-5/69
R164-4-9	Exemptions From Licensing Requirements for Certain Investment Advisers	33006	AMD	01/06/2010	2009-20/12
R164-4-9	Exemptions from Licensing Requirements for Certain Investment Advisers	33316	AMD	03/11/2010	2010-3/14
R164-6-1g	Dishonest or Unethical Business Practices	33580	AMD	06/22/2010	2010-10/59
R164-9	Registration by Coordination	33010	AMD	02/02/2010	2009-20/14
R164-10-2	Registration Statements	33011	AMD	02/02/2010	2009-20/16
R164-11-1	General Registration Provisions	33012	AMD	02/02/2010	2009-20/18
R164-12-1f	Commissions on Sales of Securities	33013	AMD	02/02/2010	2009-20/19
R164-13	Definitions	33014	REP	02/02/2010	2009-20/22
R164-14	Exemptions	33657	AMD	08/03/2010	2010-12/17
R164-18-6	Procedures for Administrative Actions	33016	AMD	02/02/2010	2009-20/23
COMMUNITY AND CULTURE					
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R207-3	Capital Funds Request Prioritization	32949	NEW	01/27/2010	2009-19/72
History					
R212-11	Historic Preservation Tax Credit	33448	5YR	03/10/2010	2010-7/51
Housing and Community Development, Community Services					
R202-101	Qualified Emergency Food Agencies Fund (QEFAF)	33252	NEW	02/22/2010	2010-1/16
Library					
R223-3	Capital Funds Request Prioritization	32936	NEW	01/27/2010	2009-19/75

CORRECTIONS

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R251-303	Offenders' Use of Telephones	33810	5YR	07/05/2010	2010-15/71

EDUCATION

Administration

R277-107	Educational Services Outside of Educator's Regular Employment	33800	5YR	07/01/2010	2010-14/55
R277-109	One-time Signing Bonuses	33651	REP	07/15/2010	2010-11/101
R277-111	Sharing of Curriculum Materials by Public School Educators	33147	NEW	01/08/2010	2009-23/15
R277-113	One-time Performance-based Compensation Program	33652	REP	07/15/2010	2010-11/103
R277-114	Corrective Action and Withdrawal or Reduction of Program Funds	33440	NEW	05/12/2010	2010-7/2
R277-402-1	Definitions	33738	AMD	08/09/2010	2010-13/47
R277-419-3	Minimum School Days, LEA Records, and Audits	33441	AMD	05/12/2010	2010-7/3
R277-433-3	School District and Charter School Policies on Disposal of Textbooks	33739	AMD	08/09/2010	2010-13/48
R277-459	Classroom Supplies Appropriation	33801	5YR	07/01/2010	2010-14/55
R277-459	Classroom Supplies Appropriation	33740	AMD	08/09/2010	2010-13/49
R277-463	Class Size Reporting	33741	R&R	08/09/2010	2010-13/51
R277-464	Highly Impacted Schools	33802	5YR	07/01/2010	2010-14/56
R277-469	Instructional Materials Commission Operating Procedures	33742	AMD	08/09/2010	2010-13/53
R277-470	Charter Schools	33442	AMD	05/12/2010	2010-7/5
R277-472	Charter School Student Enrollment and Transfers and School District Capacity Information	33743	NEW	08/09/2010	2010-13/58
R277-473	Testing Procedures	33588	5YR	04/29/2010	2010-10/166
R277-473	Testing Procedures	33744	AMD	08/09/2010	2010-13/61
R277-474	School Instruction and Human Sexuality	33803	5YR	07/01/2010	2010-14/56
R277-475	Patriotic Education	33804	5YR	07/01/2010	2010-14/57
R277-476	Incentives for Elementary Reading Program	33805	5YR	07/01/2010	2010-14/57
R277-480	Charter Schools School Building Subaccount	33745	NEW	08/09/2010	2010-13/64
R277-484	Data Standards	33443	AMD	05/12/2010	2010-7/8
R277-501	Educator Licensing Renewal and Timelines	33397	5YR	02/18/2010	2010-6/37
R277-501	Educator Licensing Renewal and Timelines	33561	AMD	06/08/2010	2010-9/11
R277-505-4	Administrative License Area of Concentration Requirements	33746	AMD	08/09/2010	2010-13/66
R277-517	Athletic Coaching Certification	33653	REP	07/15/2010	2010-11/105
R277-520	Appropriate Licensing and Assignment of Teachers	33806	5YR	07/01/2010	2010-14/58
R277-600-10	Special Transportation Levy	33747	AMD	08/09/2010	2010-13/68
R277-603	Basic Skills Education Program	33654	REP	07/15/2010	2010-11/107
R277-604-1	Definitions	33748	AMD	08/09/2010	2010-13/69
R277-609	Standards for School District, School and Charter School Discipline Plans	33749	AMD	08/09/2010	2010-13/70
R277-612-3	Foreign Exchange Student Cap	33750	AMD	08/09/2010	2010-13/72
R277-613-1	Definitions	33253	NSC	01/04/2010	Not Printed
R277-616-1	Definitions	33751	AMD	08/09/2010	2010-13/74
R277-705	Secondary School Completion and Diplomas	33752	AMD	08/09/2010	2010-13/75
R277-711-4	Fiscal Standards	33234	NSC	01/04/2010	Not Printed
R277-800	Utah Schools for the Deaf and the Blind	33254	NSC	01/04/2010	Not Printed

ENVIRONMENTAL QUALITY

Administration

R305-5	Health Reform -- Health Insurance Coverage in DEQ State Contracts -- Implementation	33102	NEW	02/16/2010	2009-22/30
R305-5	Health Reform -- Health Insurance Coverage in DEQ State Contracts -- Implementation	33102	CPR	02/16/2010	2010-2/48
R305-5	Health Reform -- Health Insurance Coverage in DEQ State Contracts -- Implementation	33589	AMD	06/23/2010	2010-10/63

R309-352 (Changed to R309-800)	Capacity Development Program	33787	NSC	07/26/2010	Not Printed
R309-400	Water System Rating Criteria	33482	5YR	03/22/2010	2010-8/48
R309-405	Compliance and Enforcement: Administrative Penalty	33483	5YR	03/22/2010	2010-8/49
R309-500	Facility Design and Operation: Plan Review, Operation and Maintenance Requirements	33486	5YR	03/22/2010	2010-8/49
R309-505	Facility Design and Operation: Minimum Treatment Requirements	33487	5YR	03/22/2010	2010-8/50
R309-510	Facility Design and Operation: Minimum Sizing Requirements	33488	5YR	03/22/2010	2010-8/50
R309-511	Hydraulic Modeling Requirements	32978	NEW	03/11/2010	2009-19/88
R309-511	Hydraulic Modeling Requirements	32978	CPR	03/11/2010	2010-3/62
R309-515	Facility Design and Operation: Source Development	33489	5YR	03/22/2010	2010-8/51
R309-515	Facility Design and Operation: Source Development	33832	NSC	07/28/2010	Not Printed
R309-515-6	Ground Water - Wells	33462	AMD	05/13/2010	2010-7/18
R309-520	Facility Design and Operation: Disinfection	33490	5YR	03/22/2010	2010-8/51
R309-525	Facility Design and Operation: Conventional Surface Water Treatment	33491	5YR	03/22/2010	2010-8/52
R309-530	Facility Design and Operation: Alternate Surface Water Treatment Methods	33492	5YR	03/22/2010	2010-8/52
R309-535	Facility Design and Operation: Miscellaneous Treatment Methods	33493	5YR	03/22/2010	2010-8/53
R309-540	Facility Design and Operation: Pump Stations	33494	5YR	03/22/2010	2010-8/53
R309-540	Facility Design and Operation: Pump Stations	33830	NSC	07/28/2010	Not Printed
R309-545	Facility Design and Operation: Drinking Water Storage Tanks	33495	5YR	03/22/2010	2010-8/54
R309-550	Facility Design and Operation: Transmission and Distribution Pipelines	33496	5YR	03/22/2010	2010-8/55
R309-600	Source Protection: Drinking Water Source Protection for Ground Water Sources	33464	5YR	03/17/2010	2010-8/55
R309-605	Source Protection: Drinking Water Source Protection for Surface Water Sources	33465	5YR	03/17/2010	2010-8/56
R309-700	Financial Assistance: State Drinking Water State Revolving Fund (SRF) Loan Program	33500	5YR	03/23/2010	2010-8/56
R309-705	Financial Assistance: Federal Drinking Water Project Revolving Loan Program	33502	5YR	03/23/2010	2010-8/57
Environmental Response and Remediation					
R311-500	Illegal Drug Operations Site Reporting and Decontamination Act, Decontamination Specialist Certification Program	33782	5YR	06/23/2010	2010-14/58
Radiation Control					
R313-19	Requirements of General Applicability to Licensing of Radioactive Material	33554	AMD	07/14/2010	2010-9/15
R313-21	General Licenses	33555	AMD	07/14/2010	2010-9/21
R313-25-8	Technical Analyses	33267	AMD	06/02/2010	2010-1/21
R313-25-8	Technical Analyses	33267	CPR	06/02/2010	2010-9/38
R313-34	Requirements for Irradiators	33367	5YR	02/10/2010	2010-5/70
R313-34-3	Clarifications or Exemptions	33368	AMD	04/15/2010	2010-5/42
Solid and Hazardous Waste					
R315-1-1	Definitions	32966	AMD	01/15/2010	2009-19/92
R315-2	General Requirements - Identification and Listing of Hazardous Waste	32967	AMD	01/15/2010	2009-19/94
R315-2	General Requirements - Identification and Listing of Hazardous Waste	32967	CPR	01/15/2010	2009-23/32
R315-5	Hazardous Waste Generator Requirements	32968	AMD	01/15/2010	2009-19/96
R315-7-27	Air Emission Standards for Equipment Leaks	33144	AMD	01/15/2010	2009-23/16
R315-8	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities	32969	AMD	01/15/2010	2009-19/99
R315-13-1	Land Disposal Restrictions	32970	AMD	01/15/2010	2009-19/103

R315-14-7	Hazardous Waste Burned in Boilers and Industrial Furnaces	32971	AMD	01/15/2010	2009-19/104
R315-16	Standards for Universal Waste Management	33681	5YR	05/27/2010	2010-12/69
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R315-102	Penalty Policy	33682	5YR	05/27/2010	2010-12/70
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ABBREVIATIONS

AMD = Amendment
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
5YR = Five-Year Review

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	33302	R25-7-10	AMD	04/21/2010	2010-3/12
alarm company					
Commerce, Occupational and Professional Licensing	33409	R156-55d	5YR	02/25/2010	2010-6/36
alcoholic beverages					
Alcoholic Beverage Control, Administration	33729	R81-1-6	AMD	09/01/2010	2010-13/5
	33153	R81-1-11	AMD	01/26/2010	2009-24/5
	33154	R81-1-26	AMD	01/26/2010	2009-24/6
	33152	R81-3-13	AMD	01/26/2010	2009-24/8
	33731	R81-4C-1	AMD	09/01/2010	2010-13/9
	33155	R81-4D-1	AMD	01/26/2010	2009-24/10
	33156	R81-4D-14	AMD	01/26/2010	2009-24/11
	33157	R81-4E	NEW	01/26/2010	2009-24/12
	33339	R81-4E-4	NSC	02/11/2010	Not Printed
	33469	R81-7-1	AMD	05/26/2010	2010-8/6
	33732	R81-10A-1	AMD	09/01/2010	2010-13/10
	33504	R81-10B-1	AMD	05/26/2010	2010-8/7
alternative onsite waste wastewater systems					
Environmental Quality, Water Quality	33370	R317-4	5YR	02/10/2010	2010-5/71
amphibians					
Natural Resources, Wildlife Resources	33449	R657-53	AMD	05/10/2010	2010-7/26
antipoverty programs					
Community and Culture, Housing and Community Development, Community Services	33252	R202-101	NEW	02/22/2010	2010-1/16
appellate procedures					
Workforce Services, Unemployment Insurance	33868	R994-508-306	NSC	08/25/2010	Not Printed
application					
Health, Health Care Financing, Coverage and Reimbursement Policy	33572	R414-302	AMD	07/01/2010	2010-10/82
	33345	R414-302-4	AMD	04/01/2010	2010-4/28
appraisals					
Tax Commission, Property Tax	33692	R884-24P-24	AMD	08/12/2010	2010-12/62
	33697	R884-24P-35	NSC	06/14/2010	Not Printed
	33695	R884-24P-62	AMD	08/12/2010	2010-12/64

	33246	R426-12-1400	AMD	03/15/2010	2010-1/29
	33125	R426-14-301	AMD	01/11/2010	2009-22/60
	33247	R426-14-600	AMD	03/15/2010	2010-1/29
	33248	R426-15-700	AMD	03/15/2010	2010-1/30
	33249	R426-16-3	AMD	03/15/2010	2010-1/31
emergency medical systems					
Health, Health Systems Improvement, Emergency Medical Services	33244	R426-5-11	AMD	03/15/2010	2010-1/27
emission testing					
Environmental Quality, Air Quality	33888	R307-165	5YR	08/04/2010	2010-17/116
employee benefit plans					
Human Resource Management, Administration	33605	R477-6	AMD	07/01/2010	2010-10/112
	33761	R477-6-7	NSC	07/01/2010	Not Printed
employee performance evaluations					
Human Resource Management, Administration	33609	R477-10	AMD	07/01/2010	2010-10/131
employee productivity					
Human Resource Management, Administration	33609	R477-10	AMD	07/01/2010	2010-10/131
employee recruitment					
Workforce Services, Unemployment Insurance	33354	R994-402	R&R	04/01/2010	2010-4/57
employees' rights					
Human Resource Management, Administration	33611	R477-12	AMD	07/01/2010	2010-10/135
employment					
Human Resource Management, Administration	33603	R477-4	AMD	07/01/2010	2010-10/107
	33772	R477-4-4	AMD	08/09/2010	2010-13/93
	33604	R477-5	AMD	07/01/2010	2010-10/110
Labor Commission, Antidiscrimination and Labor, Antidiscrimination	33687	R606-4	5YR	05/28/2010	2010-12/73
	33686	R606-5	5YR	05/28/2010	2010-12/73
employment agencies					
Labor Commission, Antidiscrimination and Labor, Antidiscrimination	33686	R606-5	5YR	05/28/2010	2010-12/73
employment support procedures					
Workforce Services, Employment Development	34060	R986-100	5YR	09/08/2010	Not Printed
employment tests					
Workforce Services, Unemployment Insurance	33521	R994-204	5YR	03/31/2010	2010-8/65
	33522	R994-205	5YR	03/31/2010	2010-8/66
	33523	R994-206	5YR	03/31/2010	2010-8/66
	33527	R994-206-101	NSC	04/14/2010	Not Printed
endangered species					
Natural Resources, Forestry, Fire and State Lands	33537	R652-120	5YR	04/01/2010	2010-8/58
enforcement					
Agriculture and Food, Animal Industry	33999	R58-15	5YR	08/25/2010	2010-18/111
Commerce, Real Estate	33372	R162-2c	NEW	04/12/2010	2010-5/7
	33666	R162-2c	AMD	07/22/2010	2010-12/6
	33506	R162-2c-203	NSC	04/14/2010	Not Printed
	33793	R162-2c-203	AMD	08/23/2010	2010-14/9
	33470	R162-2c-204	NSC	04/14/2010	Not Printed
	33471	R162-2c-301	NSC	04/14/2010	Not Printed
	33726	R162-2c-301	NSC	07/28/2010	Not Printed
	33507	R162-2c-401	NSC	04/14/2010	Not Printed
	33792	R162-2c-402	AMD	08/23/2010	2010-14/13
Natural Resources, Water Rights	33863	R655-14	5YR	07/27/2010	2010-16/78
	33862	R655-14-4	NSC	08/25/2010	Not Printed
	33619	R655-14-14	NSC	05/27/2010	Not Printed

governmental immunity caps					
Administrative Services, Risk Management	33393	R37-4	AMD	06/01/2010	2010-6/6
grant applications					
Community and Culture, Arts and Museums	32949	R207-3	NEW	01/27/2010	2009-19/72
Community and Culture, Library	32936	R223-3	NEW	01/27/2010	2009-19/75
grant prioritizations					
Community and Culture, Arts and Museums	32949	R207-3	NEW	01/27/2010	2009-19/72
Community and Culture, Library	32936	R223-3	NEW	01/27/2010	2009-19/75
grants					
Community and Culture, Arts and Museums	32949	R207-3	NEW	01/27/2010	2009-19/72
Community and Culture, Library	32936	R223-3	NEW	01/27/2010	2009-19/75
gravel					
School and Institutional Trust Lands, Administration	33532	R850-23	5YR	04/01/2010	2010-8/62
grievance procedures					
Career Service Review Board, Administration	33592	R137-1	AMD	07/01/2010	2010-10/4
	33796	R137-1	NSC	07/26/2010	Not Printed
Human Services, Child and Family Services	33826	R512-75	AMD	09/15/2010	2010-15/29
Tax Commission, Administration	33313	R861-1A-23	NSC	01/28/2010	Not Printed
	33637	R861-1A-42	NSC	05/27/2010	Not Printed
	33231	R861-1A-43	AMD	01/21/2010	2009-24/90
grievances					
Human Resource Management, Administration	33614	R477-3	AMD	07/01/2010	2010-10/105
	33633	R477-3-5	AMD	07/12/2010	2010-11/110
	33610	R477-11	AMD	07/01/2010	2010-10/133
	33647	R477-11-1	AMD	07/12/2010	2010-11/111
	33611	R477-12	AMD	07/01/2010	2010-10/135
halfway houses					
Corrections, Administration	33810	R251-303	5YR	07/05/2010	2010-15/71
hardship grants					
Environmental Quality, Drinking Water	33500	R309-700	5YR	03/23/2010	2010-8/56
harmful behavior					
Regents (Board Of), University of Utah, Administration	33146	R805-4	NEW	01/07/2010	2009-23/27
Hatch Act					
Human Resource Management, Administration	33608	R477-9	AMD	07/01/2010	2010-10/128
	33762	R477-9-3	NSC	07/01/2010	Not Printed
hazardous air pollutant					
Environmental Quality, Air Quality	33427	R307-214	AMD	06/03/2010	2010-7/11
hazardous waste					
Environmental Quality, Solid and Hazardous Waste	32966	R315-1-1	AMD	01/15/2010	2009-19/92
	32967	R315-2	AMD	01/15/2010	2009-19/94
	32967	R315-2	CPR	01/15/2010	2009-23/32
	32968	R315-5	AMD	01/15/2010	2009-19/96
	33144	R315-7-27	AMD	01/15/2010	2009-23/16
	32969	R315-8	AMD	01/15/2010	2009-19/99
	32970	R315-13-1	AMD	01/15/2010	2009-19/103
	32971	R315-14-7	AMD	01/15/2010	2009-19/104
	33681	R315-16	5YR	05/27/2010	2010-12/69
	32972	R315-50-1	AMD	01/15/2010	2009-19/105
	33682	R315-102	5YR	05/27/2010	2010-12/70
hazing					
Education, Administration	33253	R277-613-1	NSC	01/04/2010	Not Printed

	33828	R309-115	NSC	07/28/2010	Not Printed
high quality ground water					
Environmental Quality, Drinking Water	33487	R309-505	5YR	03/22/2010	2010-8/50
higher education					
Regents (Board Of), Administration	33461	R765-604	AMD	05/11/2010	2010-7/36
	33760	R765-604	AMD	08/09/2010	2010-13/129
	33581	R765-609	NEW	07/15/2010	2010-10/150
	33556	R765-626	5YR	04/13/2010	2010-9/48
highways					
Transportation, Operations, Construction	33396	R916-3	NSC	03/10/2010	Not Printed
	33452	R916-4	5YR	03/11/2010	2010-7/58
Transportation, Program Development	33445	R926-7	REP	06/21/2010	2010-7/39
	33817	R926-8	5YR	07/14/2010	2010-15/72
	33818	R926-8	NSC	07/28/2010	Not Printed
	33446	R926-13	NEW	06/21/2010	2010-7/43
	33625	R926-13	NSC	06/21/2010	Not Printed
	33447	R926-14	NEW	06/21/2010	2010-7/46
hiring practices					
Human Resource Management, Administration	33603	R477-4	AMD	07/01/2010	2010-10/107
	33772	R477-4-4	AMD	08/09/2010	2010-13/93
historic preservation					
Tax Commission, Auditing	33860	R865-6F-19	NSC	08/25/2010	Not Printed
	33693	R865-6F-27	AMD	08/12/2010	2010-12/58
	33643	R865-6F-28	NSC	05/27/2010	Not Printed
	33861	R865-6F-29	NSC	08/25/2010	Not Printed
	33859	R865-6F-31	NSC	08/25/2010	Not Printed
	33858	R865-6F-36	NSC	08/25/2010	Not Printed
	33696	R865-9I-2	AMD	08/12/2010	2010-12/59
	33384	R865-9I-7	AMD	04/08/2010	2010-5/51
	33349	R865-9I-13	AMD	04/08/2010	2010-4/49
	33645	R865-9I-13	AMD	07/08/2010	2010-11/121
	33113	R865-9I-17	AMD	01/21/2010	2009-22/86
	33646	R865-9I-21	AMD	07/08/2010	2010-11/123
	33694	R865-9I-42	AMD	08/12/2010	2010-12/61
	33348	R865-9I-44	AMD	04/08/2010	2010-4/50
	33351	R865-9I-56	AMD	04/08/2010	2010-4/53
	33640	R865-9I-56	AMD	07/08/2010	2010-11/124
historical significance					
Administrative Services, Facilities Construction and Management	33683	R23-22-7	NSC	07/08/2010	Not Printed
holidays					
Human Resource Management, Administration	33606	R477-7	AMD	07/01/2010	2010-10/117
	33278	R477-7-2	AMD	02/08/2010	2010-1/32
home school					
Education, Administration	33748	R277-604-1	AMD	08/09/2010	2010-13/69
Honoring Heroes Restricted Account					
Public Safety, Administration	33789	R698-6	NEW	09/01/2010	2010-14/28
hospital					
Health, Administration	33425	R380-210	AMD	07/26/2010	2010-7/21
hospitals					
Health, Epidemiology and Laboratory Services, Epidemiology	33183	R386-705-101	AMD	03/15/2010	2009-24/58
Health, Health Care Financing, Coverage and Reimbursement Policy	33215	R414-5	REP	02/16/2010	2009-24/69

	33665	R156-37	NSC	06/14/2010	Not Printed
	33264	R156-37-301	AMD	02/08/2010	2010-1/11
	33307	R156-38a	5YR	01/07/2010	2010-3/90
	33811	R156-38a	AMD	09/09/2010	2010-15/4
	33293	R156-47b	AMD	02/22/2010	2010-2/6
	33400	R156-47b-102	NSC	03/10/2010	Not Printed
	33737	R156-55a	AMD	08/16/2010	2010-13/30
	33409	R156-55d	5YR	02/25/2010	2010-6/36
	33566	R156-56	AMD	07/01/2010	2010-10/21
	33615	R156-60a	AMD	07/08/2010	2010-11/94
	33735	R156-60b	AMD	08/16/2010	2010-13/39
	33306	R156-60c	5YR	01/07/2010	2010-3/90
	33783	R156-60d	AMD	08/24/2010	2010-14/4
	33734	R156-61	AMD	08/16/2010	2010-13/42
	33780	R156-64	AMD	08/24/2010	2010-14/6
	33710	R156-70a	AMD	09/13/2010	2010-13/45
	33552	R156-71-202	AMD	08/16/2010	2010-9/7
	33712	R156-73-603	NSC	07/01/2010	Not Printed
	33263	R156-77-102	AMD	02/08/2010	2010-1/12
	33585	R156-78	AMD	06/21/2010	2010-10/54
	33265	R156-79	AMD	02/08/2010	2010-1/14
	33679	R156-80	AMD	07/22/2010	2010-12/5
	33638	R156-83	NEW	07/08/2010	2010-11/99
	33814	R156-83-101	NSC	07/28/2010	Not Printed
Commerce, Real Estate	33372	R162-2c	NEW	04/12/2010	2010-5/7
	33666	R162-2c	AMD	07/22/2010	2010-12/6
	33506	R162-2c-203	NSC	04/14/2010	Not Printed
	33793	R162-2c-203	AMD	08/23/2010	2010-14/9
	33470	R162-2c-204	NSC	04/14/2010	Not Printed
	33471	R162-2c-301	NSC	04/14/2010	Not Printed
	33726	R162-2c-301	NSC	07/28/2010	Not Printed
	33507	R162-2c-401	NSC	04/14/2010	Not Printed
	33792	R162-2c-402	AMD	08/23/2010	2010-14/13
	33180	R162-102	AMD	01/27/2010	2009-24/30
Governor, Economic Development, Pete Suazo Utah Athletic Commission	33460	R359-1-508	AMD	07/01/2010	2010-7/20
Human Services, Administration, Administrative Services, Licensing	33538	R501-19	5YR	04/05/2010	2010-9/46
	33539	R501-20	5YR	04/05/2010	2010-9/46
	33540	R501-21	5YR	04/05/2010	2010-9/47
	33541	R501-22	5YR	04/05/2010	2010-9/47
Technology Services, Administration	33876	R895-3	NSC	08/25/2010	Not Printed
liens					
Commerce, Occupational and Professional Licensing	33307	R156-38a	5YR	01/07/2010	2010-3/90
	33811	R156-38a	AMD	09/09/2010	2010-15/4
life jackets					
Natural Resources, Parks and Recreation	33424	R651-219-7	AMD	04/21/2010	2010-6/20
Life with Dignity Order					
Health, Health Systems Improvement, Licensing	33282	R432-31	R&R	02/25/2010	2010-2/9
	33463	R432-31	NSC	04/14/2010	Not Printed
limitation on judgments					
Administrative Services, Risk Management	33393	R37-4	AMD	06/01/2010	2010-6/6
limited-term license certificate					
Public Safety, Driver License	33143	R708-41	AMD	01/25/2010	2009-23/23
	33338	R708-41	AMD	03/24/2010	2010-4/40
	33512	R708-41	5YR	03/25/2010	2010-8/61
liquefied petroleum gas					
Public Safety, Fire Marshal	33357	R710-6	AMD	03/24/2010	2010-4/44
	33513	R710-6	AMD	05/24/2010	2010-8/28
	33838	R710-6	AMD	09/07/2010	2010-15/45

	33463	R432-31	NSC	04/14/2010	Not Printed
ports of entry					
Transportation, Motor Carrier, Ports of Entry	33675	R912-6	5YR	05/26/2010	2010-12/75
position classifications					
Human Resource Management, Administration	33614	R477-3	AMD	07/01/2010	2010-10/105
	33633	R477-3-5	AMD	07/12/2010	2010-11/110
postsecondary proprietary schools					
Commerce, Consumer Protection	33773	R152-34-7	AMD	08/09/2010	2010-13/18
preliminary notice					
Commerce, Occupational and Professional Licensing	33366	R156-38b	5YR	02/08/2010	2010-5/69
	33736	R156-38b	AMD	08/16/2010	2010-13/27
prelitigation					
Commerce, Occupational and Professional Licensing	33175	R156-78B-4	AMD	01/21/2010	2009-24/28
preservation					
Community and Culture, History	33448	R212-11	5YR	03/10/2010	2010-7/51
primary disinfectants					
Environmental Quality, Drinking Water	33490	R309-520	5YR	03/22/2010	2010-8/51
privacy					
Public Safety, Driver License	33518	R708-36	5YR	03/30/2010	2010-8/59
private investigators license					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	33567	R722-330	5YR	04/22/2010	2010-10/167
private school					
Education, Administration	33748	R277-604-1	AMD	08/09/2010	2010-13/69
procurement					
Administrative Services, Facilities Construction and Management	33621	R23-1	AMD	07/08/2010	2010-11/6
	33766	R23-2-15	NSC	07/01/2010	Not Printed
Capitol Preservation Board (State), Administration	33363	R131-1	EXT	02/08/2010	2010-5/73
	33544	R131-1	5YR	04/07/2010	2010-9/41
	33543	R131-1	NSC	04/26/2010	Not Printed
	33841	R131-4	NSC	08/25/2010	Not Printed
professional competency					
Education, Administration	33746	R277-505-4	AMD	08/09/2010	2010-13/66
professional counselors					
Commerce, Occupational and Professional Licensing	33306	R156-60c	5YR	01/07/2010	2010-3/90
program					
Capitol Preservation Board (State), Administration	33406	R131-9	EXT	02/24/2010	2010-6/43
	33551	R131-9	5YR	04/07/2010	2010-9/44
	33550	R131-9	NSC	04/26/2010	Not Printed
program benefits					
Health, Health Care Financing, Coverage and Reimbursement Policy	33259	R414-306	AMD	02/22/2010	2010-1/23
programs					
Education, Administration	33440	R277-114	NEW	05/12/2010	2010-7/2
prohibited items and devices					
Human Services, Substance Abuse and Mental Health	33333	R523-1-25	NSC	02/11/2010	Not Printed

	33267	R313-25-8	CPR	06/02/2010	2010-9/38
railroad					
Transportation, Preconstruction	33274	R930-5	R&R	02/08/2010	2010-1/49
range management					
School and Institutional Trust Lands, Administration	33557	R850-50	AMD	06/07/2010	2010-9/35
reading					
Education, Administration	33805	R277-476	5YR	07/01/2010	2010-14/57
real estate					
Administrative Services, Facilities Construction and Management	33623	R23-22	AMD	07/08/2010	2010-11/19
	33683	R23-22-7	NSC	07/08/2010	Not Printed
real estate appraisals					
Commerce, Real Estate	33158	R162-101	AMD	01/27/2010	2009-24/29
	33180	R162-102	AMD	01/27/2010	2009-24/30
	33224	R162-104	AMD	01/27/2010	2009-24/33
	33225	R162-105	AMD	01/27/2010	2009-24/39
	33226	R162-106-1	AMD	02/03/2010	2009-24/42
	33398	R162-106-7	AMD	04/28/2010	2010-6/7
	33148	R162-110	NEW	01/07/2010	2009-23/13
	33303	R162-110-1	NSC	01/28/2010	Not Printed
real estate business					
Commerce, Real Estate	33526	R162-2-2	AMD	05/25/2010	2010-8/8
	33565	R162-3	AMD	06/21/2010	2010-10/56
	33563	R162-4-1	AMD	06/16/2010	2010-9/9
reciprocity					
Environmental Quality, Radiation Control	33554	R313-19	AMD	07/14/2010	2010-9/15
reclamation					
Natural Resources, Oil, Gas and Mining; Coal	33669	R645-100-200	AMD	07/28/2010	2010-12/40
	33670	R645-103-200	AMD	07/28/2010	2010-12/43
	33394	R645-105	5YR	02/17/2010	2010-6/40
	33671	R645-201-300	AMD	07/28/2010	2010-12/46
	33672	R645-300-100	AMD	07/28/2010	2010-12/49
	33673	R645-301-100	AMD	07/28/2010	2010-12/52
	33674	R645-301-400	AMD	07/28/2010	2010-12/56
	33509	R645-301-600	NSC	04/14/2010	Not Printed
	33395	R645-400	5YR	02/17/2010	2010-6/40
records					
Pardons (Board Of), Administration	33371	R671-303	AMD	06/29/2010	2010-5/50
records access					
Career Service Review Board, Administration	33593	R137-2	AMD	07/01/2010	2010-10/16
records appeal hearings					
Administrative Services, Records Committee	33335	R35-1-4	AMD	05/17/2010	2010-4/16
	33436	R35-1-4	NSC	05/17/2010	Not Printed
	33399	R35-1a	5YR	02/22/2010	2010-6/35
records retention					
Administrative Services, Archives	33320	R17-7-3	AMD	05/17/2010	2010-3/12
refugee resettlement program					
Workforce Services, Employment Development	34062	R986-300	5YR	09/08/2010	Not Printed
regionalization					
Environmental Quality, Drinking Water	33501	R309-352	5YR	03/23/2010	2010-8/47
	33787	R309-352	NSC	07/26/2010	Not Printed

	33113	R865-9I-17	AMD	01/21/2010	2009-22/86
	33646	R865-9I-21	AMD	07/08/2010	2010-11/123
	33694	R865-9I-42	AMD	08/12/2010	2010-12/61
	33348	R865-9I-44	AMD	04/08/2010	2010-4/50
	33351	R865-9I-56	AMD	04/08/2010	2010-4/53
	33640	R865-9I-56	AMD	07/08/2010	2010-11/124
taxation					
Tax Commission, Administration	33313	R861-1A-23	NSC	01/28/2010	Not Printed
	33637	R861-1A-42	NSC	05/27/2010	Not Printed
	33231	R861-1A-43	AMD	01/21/2010	2009-24/90
Tax Commission, Auditing	33860	R865-6F-19	NSC	08/25/2010	Not Printed
	33693	R865-6F-27	AMD	08/12/2010	2010-12/58
	33643	R865-6F-28	NSC	05/27/2010	Not Printed
	33861	R865-6F-29	NSC	08/25/2010	Not Printed
	33859	R865-6F-31	NSC	08/25/2010	Not Printed
	33858	R865-6F-36	NSC	08/25/2010	Not Printed
	33350	R865-12L-5	AMD	04/08/2010	2010-4/54
	33352	R865-12L-6	AMD	04/08/2010	2010-4/55
	33691	R865-20T-13	AMD	08/12/2010	2010-12/62
Tax Commission, Property Tax	33692	R884-24P-24	AMD	08/12/2010	2010-12/62
	33697	R884-24P-35	NSC	06/14/2010	Not Printed
	33695	R884-24P-62	AMD	08/12/2010	2010-12/64
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Education, Administration	33746	R277-505-4	AMD	08/09/2010	2010-13/66
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Education, Administration	33801	R277-459	5YR	07/01/2010	2010-14/55
	33740	R277-459	AMD	08/09/2010	2010-13/49
	33805	R277-476	5YR	07/01/2010	2010-14/57
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Technology Services, Administration	33878	R895-5	NSC	08/25/2010	Not Printed
	33334	R895-9	5YR	01/20/2010	2010-4/82
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Technology Services, Administration	33878	R895-5	NSC	08/25/2010	Not Printed
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Human Resource Management, Administration	33607	R477-8	AMD	07/01/2010	2010-10/124
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Health, Epidemiology and Laboratory Services, Environmental Services	33212	R392-400-17	AMD	03/15/2010	2009-24/64
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Education, Administration	33739	R277-433-3	AMD	08/09/2010	2010-13/48
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Commerce, Occupational and Professional Licensing	33735	R156-60b	AMD	08/16/2010	2010-13/39
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Labor Commission, Antidiscrimination and Labor, Labor	33299	R610-3-22	AMD	03/24/2010	2010-3/53
	33299	R610-3-22	CPR	03/24/2010	2010-4/75
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Insurance, Title and Escrow Commission	34078	R592-1	5YR	09/15/2010	Not Printed
	34077	R592-2	5YR	09/15/2010	Not Printed
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Tax Commission, Auditing	33691	R865-20T-13	AMD	08/12/2010	2010-12/62
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Transportation Commission, Administration	33369	R940-1-3	EMR	02/10/2010	2010-5/67
	33386	R940-1-3	AMD	04/07/2010	2010-5/52

	33439	R657-15	5YR	03/09/2010	2010-7/56
	33451	R657-17	AMD	05/10/2010	2010-7/24
	33755	R657-17	AMD	08/09/2010	2010-13/115
	33314	R657-20	EMR	01/12/2010	2010-3/65
	33287	R657-20	AMD	02/22/2010	2010-2/22
	33361	R657-20-11	NSC	02/24/2010	Not Printed
	33438	R657-21	5YR	03/09/2010	2010-7/57
	33497	R657-21	AMD	06/01/2010	2010-8/27
	34013	R657-24	5YR	08/26/2010	2010-18/116
	33331	R657-33	AMD	03/25/2010	2010-4/35
	33272	R657-37-9	AMD	02/08/2010	2010-1/47
	33756	R657-41	AMD	08/09/2010	2010-13/117
	33754	R657-42	AMD	08/09/2010	2010-13/120
	33449	R657-53	AMD	05/10/2010	2010-7/26
	33676	R657-55	5YR	05/26/2010	2010-12/75
	33757	R657-55	AMD	08/09/2010	2010-13/124
	33753	R657-60	EMR	06/15/2010	2010-13/139
	33759	R657-60	AMD	08/09/2010	2010-13/128
	33450	R657-62	AMD	05/10/2010	2010-7/28
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Natural Resources, Wildlife Resources	33949	R657-11	5YR	08/16/2010	2010-17/116
	33758	R657-12	AMD	08/09/2010	2010-13/113
	33438	R657-21	5YR	03/09/2010	2010-7/57
	33497	R657-21	AMD	06/01/2010	2010-8/27
	33753	R657-60	EMR	06/15/2010	2010-13/139
	33759	R657-60	AMD	08/09/2010	2010-13/128
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Natural Resources, Wildlife Resources	33439	R657-15	5YR	03/09/2010	2010-7/56
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Natural Resources, Wildlife Resources	33756	R657-41	AMD	08/09/2010	2010-13/117
	33676	R657-55	5YR	05/26/2010	2010-12/75
	33757	R657-55	AMD	08/09/2010	2010-13/124
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Environmental Quality, Air Quality	33435	R307-207	5YR	03/04/2010	2010-7/55
	33698	R307-302	5YR	06/02/2010	2010-13/143
workers' compensation					
Administrative Services, Risk Management	33392	R37-2	NSC	03/10/2010	Not Printed
Labor Commission, Industrial Accidents	34057	R612-6	5YR	09/03/2010	Not Printed
	33230	R612-13	NEW	01/21/2010	2009-24/89
workers' compensation insurance					
Insurance, Administration	33617	R590-231	5YR	05/04/2010	2010-11/129
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Workforce Services, Employment Development	34065	R986-600	5YR	09/08/2010	Not Printed
youth corrections					
Human Services, Administration	33662	R495-883	NEW	08/09/2010	2010-12/34
Human Services, Recovery Services	33659	R527-550	REP	08/09/2010	2010-12/38
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Human Services, Child and Family Services	33256	R512-10	AMD	02/09/2010	2010-1/33