

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed December 16, 2011, 12:00 a.m. through January 03, 2012, 11:59 p.m.

Number 2012-2
January 15, 2012

Nancy L. Lancaster, Editor
Kenneth A. Hansen, Director
Kimberly K. Hood, Executive Director

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63G-3-402.

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3764, FAX 801-537-9240. 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

Unless otherwise noted, all information presented in this publication is in the public domain and may be reproduced, reprinted, and redistributed as desired. Materials incorporated by reference retain the copyright asserted by their respective authors. Citation to the source is requested.

Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.

I. Utah. Office of Administrative Rules.

KFU440.A73S7

348.792'025--DDC

85-643197

TABLE OF CONTENTS

EDITOR'S NOTES	1
Administrative Services	
Administrative Rules	
Delayed Notice, Publication, and Codification of the Expiration of Rule R105-1.....	1
SPECIAL NOTICES	3
Health	
Health Care Financing, Coverage and Reimbursement Policy	
Notice for February 2012 Medicaid Rate Changes.....	3
NOTICES OF PROPOSED RULES	5
Administrative Services	
Purchasing and General Services	
No. 35613 (Amendment): R33-3 Source Selection and Contract Formation.....	6
Agriculture and Food	
Plant Industry	
No. 35566 (Repeal): R68-21 Standard of Identity for Honey.....	16
Regulatory Services	
No. 35612 (New Rule): R70-520 Standard of Identity and Labeling Requirements	
for Honey.....	18
Alcoholic Beverage Control	
Administration	
No. 35588 (Amendment): R81-1-6 Violation Schedule.....	20
Capitol Preservation Board (State)	
Administration	
No. 35610 (Amendment): R131-13 Health Reform - Health Insurance Coverage	
in State Contracts - Implementation.....	24
Career Service Review Office	
Administration	
No. 35559 (Amendment): R137-1-21 The Evidentiary/Step 4 Adjudicatory Procedures.....	26
Commerce	
Occupational and Professional Licensing	
No. 35585 (Amendment): R156-83-502 Unprofessional Conduct.....	28
Securities	
No. 35558 (New Rule): R164-101 Securities Fraud Reporting Program Act.....	29
Health	
Administration	
No. 35571 (New Rule): R380-60 Local Health Department Emergency Protocols.....	31
Health Care Financing, Coverage and Reimbursement Policy	
No. 35584 (Amendment): R414-1-5 Incorporations by Reference.....	33
No. 35583 (Amendment): R414-401-5 Penalties and Interest.....	36
Family Health and Preparedness, Child Care Licensing	
No. 35581 (New Rule): R430-1 General Licensing, Certificate, and Enforcement Provisions,	
Child Care Facilities.....	37
No. 35579 (Repeal): R430-2 General Licensing Provisions, Child Care Facilities.....	40
No. 35580 (Repeal): R430-3 General Child Care Facility Rules Inspection and Enforcement.....	42
No. 35573 (Amendment): R430-6 Background Screening.....	46
No. 35574 (Amendment): R430-50 Residential Certificate Child Care.....	47
No. 35575 (Repeal and Reenact): R430-60 Hourly Child Care Center.....	55
No. 35576 (Amendment): R430-70 Out of School Time Child Care Programs.....	70
No. 35577 (Amendment): R430-90 Licensed Family Child Care.....	77
No. 35578 (Amendment): R430-100 Child Care Centers.....	82
Human Services	
Substance Abuse and Mental Health, State Hospital	
No. 35589 (Amendment): R525-2 Patient Rights.....	95
No. 35590 (Amendment): R525-3 Medication Treatment of Patients.....	96

TABLE OF CONTENTS

No. 35591 (Amendment): R525-5 Background Checks.....	97
No. 35593 (Amendment): R525-6 Prohibited Items and Devices.....	98
No. 35594 (Amendment): R525-7 Complaints/Suggestions/Concerns.....	99
No. 35596 (Amendment): R525-8 Forensic Mental Health Facility.....	100
Pardons (Board Of)	
Administration	
No. 35551 (Amendment): R671-305 Notification of Board Decision.....	101
Public Safety	
Peace Officer Standards and Training	
No. 35568 (Repeal): R728-408 POST Academy and the Emergency Vehicle Operations Range are Secure Facilities.....	102
Workforce Services	
Employment Development	
No. 35586 (Amendment): R986-700-713 Amount of CC Payment.....	104
NOTICES 120-DAY (EMERGENCY) RULES.....	105
Capitol Preservation Board (State)	
Administration	
No. 35611: R131-13 Health Reform - Health Insurance Coverage in State Contracts - Implementation.....	105
Community and Culture	
Housing and Community Development	
No. 35572: R199-12 State Small Business Credit Initiative Program Fund.....	108
FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION.....	111
Administrative Services	
Fleet Operations	
No. 35545: R27-10 Identification Mark for State Motor Vehicles.....	111
Commerce	
Occupational and Professional Licensing	
No. 35552: R156-70a Physician Assistant Practice Act Rule.....	111
Insurance	
Administration	
No. 35587: R590-102 Insurance Department Fee Payment Rule.....	112
No. 35554: R590-103 Security Deposits.....	113
No. 35570: R590-121 Rate Modification Plan Rule.....	113
No. 35556: R590-126 Accident and Health Insurance Standards.....	114
No. 35569: R590-133 Variable Contracts.....	115
No. 35557: R590-176 Health Benefit Plan Enrollment.....	115
No. 35555: R590-181 Yankee Bond Rule.....	116
No. 35553: R590-182 Risk Based Capital Instructions.....	116
Public Safety	
Administration	
No. 35547: R698-1 Public Petitions for Declaratory Orders.....	117
No. 35548: R698-2 Government Records Access and Management Act Rule.....	117
No. 35549: R698-3 Americans With Disabilities Act (ADA) Complaint Procedure.....	118
Peace Officer Standards and Training	
No. 35560: R728-405 Drug Testing Requirement.....	118
No. 35561: R728-406 Requirements For Approval and Certification of Basic Correctional, Reserve and Special Function Training Programs and Applicants.....	119
No. 35562: R728-407 Waiver/Reactivation Process.....	119
No. 35567: R728-408 POST Academy and the Emergency Vehicle Operations Range are Secure Facilities.....	120
No. 35563: R728-409 Suspension or Revocation of Peace Officer Certification.....	120
No. 35564: R728-410 Guidelines Regarding Failure To Obtain Annual Statutory Training.....	121
No. 35565: R728-500 Utah Peace Officer Standards and Training In-Service Training Certification Procedures.....	121

Tax Commission	
Administration	
No. 35595: R861-1A Administrative Procedures.....	122
Auditing	
No. 35597: R865-3C Corporation Income Tax.....	125
No. 35598: R865-4D Special Fuel Tax.....	125
No. 35599: R865-6F Franchise Tax.....	126
No. 35600: R865-9I Income Tax.....	127
No. 35601: R865-11Q Self-Insured Employer Assessment.....	130
No. 35602: R865-12L Local Sales and Use Tax.....	130
No. 35603: R865-13G Motor Fuel Tax.....	131
No. 35604: R865-14W Mineral Producers' Withholding Tax.....	132
No. 35605: R865-15O Oil and Gas Tax.....	133
No. 35606: R865-19S Sales and Use Tax.....	133
No. 35607: R865-20T Tobacco Tax.....	137
Motor Vehicle	
No. 35608: R873-22M Motor Vehicle.....	138
Motor Vehicle Enforcement	
No. 35609: R877-23V Motor Vehicle Enforcement.....	140
Property Tax	
No. 35592: R884-24P Property Tax.....	141
NOTICES OF FIVE YEAR EXPIRATIONS.....	145
Attorney General	
Administration	
No. 35546: R105-1 Attorney General's Selection of Outside Counsel, Expert	
Witnesses and Other Litigation Support Services.....	145
NOTICES OF RULE EFFECTIVE DATES.....	147
2012 RULES INDEX	
BY AGENCY (CODE NUMBER)	
AND	
BY KEYWORD (SUBJECT).....	149
2011 COMPLETE RULES INDEX	
BY AGENCY (CODE NUMBER)	
AND	
BY KEYWORD (SUBJECT).....	153

EDITOR'S NOTES

Delayed Notice, Publication, and Codification of the Expiration of Rule R105-1

Rule R105-1, entitled "Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services," expired effective 11/23/2011. The rule expired because the required five-year review was not filed by the due date (see Subsection 63G-3-305(8)).

Notice of the expiration should have been published in the December 15, 2011, issue of the Utah State Bulletin. Due to a clerical oversight, the expiration was not recorded until 12/16/2011. Thus, notice is published in this issue.

In addition, the rule should have been removed from the December 2011 update to the Utah Administrative Code. It was not. This error will be corrected by the removal of the rule in the January 2012 update.

Questions regarding the expiration of Rule R105-1 should be addressed to Nancy Lancaster at 801-538-3218 or by email at nllancaster@utah.gov. The Division of Administrative Rules regrets any inconvenience caused by this error.

End of the Editor's Notes Section

SPECIAL NOTICES

Health Health Care Financing, Coverage and Reimbursement Policy

Notice for February 2012 Medicaid Rate Changes

Effective February 1, 2012, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies as well as potential adjustments to existing codes. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/bcrp.htm>

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between December 16, 2011, 12:00 a.m., and January 03, 2012, 11:59 p.m. are included in this, the January 15, 2012 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 February 14, 2012. 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 May 14, 2012, the agency may notify the Division of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses and the agency must start the process over.

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

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

The Proposed Rules Begin on the Following Page

Administrative Services, Purchasing and General Services

R33-3

Source Selection and Contract Formation

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35613

FILED: 01/03/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 476 (2011 General Session) directs that rules be drafted governing the procurement, management, and control of any and all technology to be procured by the state.

SUMMARY OF THE RULE OR CHANGE: This amendment makes changes to the bidding and procurement process as they related to technology acquisition.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63G, Chapter 6

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: It is possible that cost savings may be obtained by state agencies for not having to conduct re-procurements for new technologies and/or upgrades. It allows state agencies greater flexibility in conducting pilot tests of new technology which may reduce costs for research.
- ◆ LOCAL GOVERNMENTS: It is possible that cost savings may be obtained by local governments for not having to conduct re-procurements for new technologies and/or upgrades.
- ◆ SMALL BUSINESSES: May allow small business access to state agency technology opportunities to demonstrate or pilot new technology or upgrades/enhancements to existing technologies.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Cost savings may be realized by all government entities and all those doing or interesting in doing business with the state.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None-- There are no known compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I foresee the potential for greater efficiencies in government through the ability of government entities being able to modify existing contracts for technology-related enhancements, provided the ability to modify was contained in the original solicitation, thereby reducing procurement-related costs to vendors. Potential state contractors will have the opportunity

to pilot their technology and technology-related goods and services without a lengthy competitive process.

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

ADMINISTRATIVE SERVICES
PURCHASING AND GENERAL SERVICES
ROOM 3150 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Paul Mash by phone at 801-538-3138, by FAX at 801-538-3882, or by Internet E-mail at pmash@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2012

AUTHORIZED BY: Kent Beers, Director

R33. Administrative Services, Purchasing and General Services.

R33-3. Source Selection and Contract Formation.

R33-3-1. Competitive Sealed Bidding; Multi-Step Sealed Bidding.

3-101 Content of the Invitation For Bids.

(1) Use. The Invitation for Bids is used to initiate a competitive sealed bid procurement.

(2) Content. The Invitation for Bids include the following:

(a) Instructions and information to bidders concerning the bid submission requirements, including the time and closing date for submission of bids, the address of the office to which bids are to be delivered, and any other special information;

(b) The purchase description, evaluation factors, delivery or performance schedule, and inspection and acceptance requirements not included in the purchase description;

(c) The contract terms and conditions, including warranty and bonding or other security requirements, as applicable.

(3) Incorporation by Reference. The Invitation for Bids may incorporate documents by reference provided that the Invitation for Bids specifies where the documents can be obtained.

(4) Acknowledgement of Amendments. The Invitation for Bids shall require the acknowledgement of the receipt of all amendments issued.

(5) Technology Acquisitions. The Invitation for Bids may state that at any time during the term of a contract, the acquiring agency may undertake a review in consultation with the Utah Technology Advisory Board and the Department of Technology Services to determine whether a new technology exists that is in the best interest of the acquiring agency, taking into consideration cost, life-cycle, references, current customers, and other factors and that the acquiring agency reserves the right to:

(a) negotiate with the contractor for the new technology, provided the new technology is substantially within the original scope of work;

(b) terminate the contract in accordance with the existing contract terms and conditions; or

(c) conduct a new procurement for an additional or supplemental contract as needed to take into account new technology.

3-102 Bidding Time. Bidding time is the period of time between the date of distribution of the Invitation for Bids and the date set for opening of bids. In each case bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of 10 calendar days shall be provided unless a shorter time is deemed necessary for a particular procurement as determined in writing by the Chief Procurement Officer.

3-103 Bidder Submissions.

(1) Bid Form. The Invitation for Bids shall provide a form which shall include space in which the bid price shall be inserted and which the bidder shall sign and submit along with all other necessary submissions.

(2) Electronic Bids. The Invitation for Bids may state that electronic bids will be considered whenever they are received at the designated office by the time specified for bid opening.

(3) Bid Samples and Descriptive Literature.

(a) Descriptive literature means information available in the ordinary course of business which shows the characteristics, construction, or operation of an item and assists the purchasing agency in considering whether the item meets requirements or criteria set forth in the invitation.

(b) Bid sample means a sample to be furnished by a bidder to show the characteristics of the item offered in the bid.

(c) Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.

(d) Samples of items, when called for in the Invitation for Bids, must be furnished free of expense, and if not destroyed by testing, will upon request, be returned at the bidder's expense. Samples submitted by the successful bidder may be held for comparison with merchandise furnished and will not necessarily be returned. Samples must be labeled or otherwise identified as called for by the purchasing agency.

(4) Bid Security. Bid and performance bonds or other security may be required for supply contracts or service contracts as the procurement officer deems advisable to protect the interests of the purchasing agency. Any requirements must be set forth in the solicitation. Bid or performance bonds should not be used as a substitute for a determination of bidder or offeror responsibility.

(5) Bid Price. Bid prices submitted in response to an invitation for bids must stand alone and may not be dependent upon a bid submitted by any other bidder. A bid reliant upon the submission of another bidder will not be considered for award.

3-104 Public Notice.

(1) Distribution. Invitation for Bids or notices of the availability of Invitation for Bids shall be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing reasonable competition. Notices of availability shall indicate where, when, and for how long Invitation for Bids may be obtained; generally describe the supply, service, or construction desired; and may contain other appropriate information. Where

appropriate, the procurement officer may require payment of a fee or a deposit for the supplying of the Invitation for Bids.

(2) Publication. Every procurement in excess of \$50,000 shall be publicized in any or all of the following:

(a) in a newspaper of general circulation;

(b) in a newspaper of local circulation in the area pertinent to the procurement;

(c) in industry media; or

(d) in a government internet website or publication designed for giving public notice.

(3) Public Availability. A copy of the Invitation for Bids shall be made available for public inspection at the procurement officer's office.

3-105 Bidder List; Prequalification.

(1) Purpose. Lists of qualified prospective bidders may be compiled and maintained by purchasing agencies for the purpose of soliciting competition on various types of supplies, services, and construction. Qualifications for inclusion on the lists may include legal competence to contract and capabilities for production and distribution as considerations. However, solicitations shall not be restricted to prequalified suppliers, and unless otherwise provided inclusion or exclusion on the name of a business does not determine whether the business is responsible with respect to a particular procurement or otherwise capable of successfully performing a contract.

(2) Public Availability. Subject to procedures established by the procurement officer, names and addresses on bidder lists shall be available for public inspection.

3-106 Pre-Bid Conferences.

Pre-bid conferences may be conducted to explain the procurement requirements. They shall be announced to all prospective bidders known to have received an Invitation for Bids. The conference should be held long enough after the Invitation for Bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Nothing stated at the pre-bid conference shall change the Invitation for Bids unless a change is made by written amendment as provided in section 3-107 and the Invitation for Bids and the notice of the pre-bid conference shall so provide. If a written summary of the conference is deemed advisable by the procurement officer, a copy shall be supplied to all those prospective bidders known to have received an Invitation for Bids and shall be available as a public record.

3-107 Amendments to Invitation for Bids.

(1) Application. Amendments should be used to:

(a) make any changes in the Invitation for Bids including changes in quantity, purchase descriptions, delivery schedules, and opening dates;

(b) correct defects or ambiguities; or

(c) furnish to other bidders information given to one bidder if the information will assist the other bidders in submitting bids or if the lack of information would be inequitable to other bidders.

(2) Form. Amendments to Invitation for bids shall be identified as such and shall require that the bidder acknowledge receipt of all amendments issued.

(3) Distribution. Amendments shall be sent to all prospective bidders known to have received an Invitation for Bids.

(4) **Timeliness.** Amendments shall be distributed within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time set for bid opening will not permit proper preparation, to the extent possible the time shall be increased in the amendment or, if necessary, by telegram or telephone and confirmed in the amendment.

3-108 Pre-Opening Modification of Withdrawal of Bids.

(1) **Procedure.** Bids may be modified or withdrawn by written or electronic notice received in the office designated in the Invitation for Bids prior to the time set for bid opening.

(2) **Disposition of Bid Security.** Bid security, if any, shall be returned to the bidder when withdrawal of the bid is permitted.

(3) **Records.** All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.

3-109 Late Bids, Late Withdrawals, and Late Modifications.

(1) **Definition.** Any bid, withdrawal, or modification received at the address designated in the Invitation for Bids after the time and date set for opening of bids at the place designated for opening is late.

(2) **Treatment.** No late bid, late modification, or late withdrawal will be considered unless received before contract award, and the bid, modification, or withdrawal would have been timely but for the action or inaction of personnel directly serving the procurement activity.

(3) **Records.** Records equivalent to those required in section 3-108 (3) shall be made and kept for each late bid, late modification, or late withdrawal.

3-110 Receipt, Opening, and Recording of Bids.

(1) **Receipt.** Upon receipt, all bids and modifications will be time stamped, but not opened. Bids submitted through electronic means shall be received in such a manner that the time and date of submittal, along with the contents of such bids shall be securely stored until the time and date set for bid opening. They shall be stored in a secure place until bid opening time.

(2) **Opening and Recording.** Bids and modifications shall be opened publicly, in the presence of one or more witnesses, at the time and place designated in the Invitation for Bids. The names of the bidders, the bid price, and other information as is deemed appropriate by the procurement officer, shall be read aloud or otherwise be made available. The opened bids shall be available for public inspection except to the extent the bidder designates trade secrets or other proprietary data to be confidential as set forth in subsection (3) of this section. Material so designated shall accompany the bid and shall be readily separable from the bid in order to facilitate public inspection of the nonconfidential portion of the bid. Make and model, and model or catalogue numbers of the items offered, deliveries, and terms of payment shall be publicly available at the time of bid opening regardless of any designation to the contrary. Bids submitted through electronic means shall be received in such a manner that the requirements of this section can be readily met.

(3) **Confidential Data.** The procurement officer shall examine the bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. If the parties do not agree as to the disclosure of data, the procurement officer shall inform the bidders in writing what portions of the bids will be disclosed.

3-111 Mistakes in Bids.

(1) If a mistake is attributable to an error in judgment, the bid may not be corrected. Bid correction or withdrawal by reason of an inadvertent, nonjudgmental mistake is permissible, but at the discretion of the procurement officer and to the extent it is not contrary to the interest of the purchasing agency or the fair treatment of other bidders.

(2) **Mistakes Discovered Before Opening.** A bidder may correct mistakes discovered before bid opening by withdrawing or correcting the bid as provided in section 3-108.

(3) **Confirmation of Bid.** When it appears from a review of the bid that a mistake has been made, the bidder should be requested to confirm the bid. Situations in which confirmation should be requested include obvious, apparent errors on the face of the bid or a bid unreasonably lower than the other bids submitted. If the bidder alleges mistake, the bid may be corrected or withdrawn if the conditions set forth in subsection (1), (4) and (6) of this section are met.

(4) **Mistakes Discovered After Opening But Before Award.** This subsection sets forth procedures to be applied in three situations described in paragraphs (a), (b) and (c) below in which mistakes in bids are discovered after opening but before award.

(a) **Minor Informalities.** Minor informalities are matters of form rather than substance evident from the bid document, or insignificant mistakes that can be waived or corrected without prejudice to other bidders; that is, the effect on price, quantity, quality, delivery, or contractual conditions is not significant. The procurement officer may waive these informalities. Examples include the failure of a bidder to:

(i) return the number of signed bids required by the Invitation for Bids;

(ii) sign the bid, but only if the unsigned bid is accompanied by other material indicating the bidder's intent to be bound;

(iii) acknowledge receipt of an amendment to the Invitation for Bids, but only if:

(A) it is clear from the bid that the bidder received the amendment and intended to be bound by its terms; or

(B) the amendment involved had a negligible effect on price, quantity, quality, or delivery.

(C) **Mistakes Where Intended Bid is Evident.** If the mistake and the intended bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.

(D) **Mistakes Where Intended Bid is Not Evident.** A bidder may be permitted to withdraw a low bid if:

(i) a mistake is clearly evident on the face of the bid document but the intended bid is not similarly evident; or

(ii) the bidder submits proof of evidentiary value which clearly and convincingly demonstrates that a mistake was made.

(5) **Mistakes Discovered After Award.** Mistakes shall not be corrected after award of the contract.

(6) **Written Approval or Denial Required.** The procurement officer shall approve or deny, in writing, a bidder's request to correct or withdraw a bid. Approval or denial may be so

indicated on the bidder's written request for correction or withdrawal.

3-112 Bid Evaluation and Award.

(1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids. The Invitation for Bids shall set forth the requirements and criteria which will be used to determine the lowest responsive and responsible bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the Invitation for Bids. An Invitation for Bids, a Request for Proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected, in whole or in part, when it is the best interests of the purchasing agency as determined by the purchasing agency. In the event of cancellation of the solicitation or rejection of all bids or proposals received in response to a solicitation, the reasons for cancellation or rejection shall be made a part of the bid file and shall be available for public inspection and the purchasing agency shall (a) re-solicit new bids using the same or revised specifications; or (b) withdraw the requisition for supplies or services.

(2) Responsibility and Responsiveness. Responsibility of prospective contractors is covered by subpart 3-7 of these rules. Responsiveness of bids is covered by Subsection 63G-6-103(24) and responsive bidder is defined in Subsection 63G-6-103(25).

(3) Product Acceptability. The Invitation for Bids shall set forth the evaluation criteria to be used in determining product acceptability. It may require the submission of bid samples, descriptive literature, technical data, or other material. It may also provide for:

(a) inspection or testing of a product prior to award for such characteristics as quality or workmanship;

(b) examination of such elements as appearance, finish, taste, or feel; or

(c) other examinations to determine whether it conforms with any other purchase description requirements. The acceptability evaluation is not conducted for the purpose of determining whether one bidder's item is superior to another but only to determine that a bidder's offering is acceptable as set forth in the Invitation for Bids. Any bidder's offering which does not meet the acceptability requirements shall be rejected.

(4) Determination of Lowest Bidder. Bids will be evaluated to determine overall economy for the intended use, in accordance with the evaluation criteria set forth in the Invitation for Bids. Examples of criteria include transportation cost, energy cost, ownership and other identifiable costs or life-cycle cost formulae. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible the evaluation factors shall:

(a) be reasonable estimates based upon information the purchasing agency has available concerning future use; and

(b) treat all bids equitably.

(5) Extension of Time for Bid or Proposal Acceptance. After opening bids or proposals, the procurement officer may request bidders or offerors to extend the time during which their bids or proposals may be accepted, provided that, with regard to bids, no other change is permitted. The reasons for requesting an extension shall be documented.

(6) Only One Bid or Proposal Received. If only one responsive bid is received in response to an Invitation for Bids, including multi-step bidding, an award may be made to the single

bidder if the procurement officer finds that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise, the bid may be rejected and:

(a) new bids or offers may be solicited;

(b) the proposed procurement may be canceled; or

(c) if the procurement officer determines in writing that the need for the supply of service continues but that the price of the one bid is not fair and reasonable and there is no time for resolicitation or resolicitation would likely be futile, the procurement may then be conducted under subpart 3-4 or subpart 3-5, as appropriate.

(7) Multiple or Alternate Bids or Proposals. Unless multiple or alternate bids or offers are specifically provided for, the solicitation shall state they will not be accepted. When prohibited, the multiple or alternate bids or offers shall be rejected although a clearly indicated base bid shall be considered for award as though it were the only bid or offer submitted by the bidder or offeror. The provisions of this subsection shall be set forth in the solicitation, and if multiple or alternate bids are allowed, it shall specify their treatment.

3-113 Tie Bids.

(1) Definition. Tie bids are low responsive bids from responsible bidders that are identical in price.

(2) Award. Award shall not be made by drawing lots, except as set forth below, or by dividing business among identical bidders. In the discretion of the procurement officer, award shall be made in any permissible manner that will discourage tie bids. Procedures which may be used to discourage tie bids include:

(a) where identical low bids include the cost of delivery, award the contract to the bidder closest to the point of delivery;

(b) award the contract to the identical bidder who received the previous award and continue to award succeeding contracts to the same bidder so long as all low bids are identical;

(c) award to the identical bidder with the earliest delivery date;

(d) award to a Utah resident bidder or for a Utah produced product where other tie bids are from out of state;

(e) if price is considered excessive or for other reason the bids are unsatisfactory, reject all bids and negotiate a more favorable contract in the open market; or

(f) if no permissible method will be effective in discouraging tie bids and a written determination is made so stating, award may be made by drawing lots.

(3) Record. Records shall be made of all Invitations for Bids on which tie bids are received showing at least the following information:

(a) the Invitation for Bids;

(b) the supply, service, or construction item;

(c) all the bidders and the prices submitted; and

(d) procedure for resolving tie bids. A copy of each record shall be sent to the Attorney General if the tie bids are in excess of \$50,000.

3-114 Multi-Step Sealed Bidding.

(1) Definition. Multi-step sealed bidding is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the purchasing agency, and a second phase in which those bidders whose technical offers are determined to be

acceptable during the first phase have their price bids considered. It is designed to obtain the benefits of competitive sealed bidding by award of a contract to the lowest responsive, responsible bidder, and at the same time obtain the benefits of the competitive sealed proposals procedure through the solicitation of technical offers and the conduct of discussions to arrive at technical offers and terms acceptable to the purchasing agency and suitable for competitive pricing.

(2) Use. The multi-step sealed bidding method will be used when the procurement officer deems it to the advantage of the purchasing agency. Multi-step sealed bidding will thus be used when it is considered desirable:

(a) to invite and evaluate technical offers to determine their acceptability to fulfill the purchase description requirements;

(b) to conduct discussions for the purposes of facilitating understanding of the technical offer and purchase description requirements and, where appropriate, obtain supplemental information, permit amendments of technical offers, or amend the purchase description;

(c) to accomplish subsections (a) and (b) of this section prior to soliciting priced bids; and

(d) to award the contract to the lowest responsive and responsible bidder in accordance with the competitive sealed bidding procedures.

3-115 Pre-Bid Conferences in Multi-Step Sealed Bidding.

Prior to the submission of unpriced technical offers, a pre-bid conference as contemplated by section 3-106 may be conducted by the procurement officer. The procurement officer may also hold a conference of all bidders in accordance with section 3-106 at any time during the evaluation of the unpriced technical offers.

3-116 Procedure for Phase One of Multi-Step Sealed Bidding.

(1) Form. Multi-step sealed bidding shall be initiated by the issuance of an Invitation for Bids in the form required by section 3-101. In addition to the requirements set forth in section 3-101, the multi-step Invitation for Bids shall state:

(a) that unpriced technical offers are requested;

(b) whether price bids are to be submitted at the same time as unpriced technical offers; if they are, the price bids shall be submitted in a separate sealed envelope;

(c) that it is a multi-step sealed bid procurement, and priced bids will be considered only in the second phase and only from those bidders whose unpriced technical offers are found acceptable in the first phase;

(d) the criteria to be used in the evaluation of the unpriced technical offers;

(e) that the purchasing agency, to the extent the procurement officer finds necessary, may conduct oral or written discussions of the unpriced technical offers;

(f) that bidders may designate those portions of the unpriced technical offers which contain trade secrets or other proprietary data which are to remain confidential; and

(g) that the item being procured shall be furnished generally in accordance with the bidder's technical offer as found to be finally acceptable and shall meet the requirements of the Invitation for Bids.

(2) Amendments to the Invitation for Bids. After receipt of unpriced technical offers, amendments to the Invitation for Bids shall be distributed only to bidders who submitted unpriced

technical offers and they shall be allowed to submit new unpriced technical offers or to amend those submitted. If, in the opinion of the procurement officer, a contemplated amendment will significantly change the nature of the procurement, the Invitation for Bids shall be canceled in accordance with Subsection R33-3-112(1) of these rules and a new Invitation for Bids issued.

(3) Receipt and Handling of Unpriced Technical Offers. Unpriced technical offers shall be opened publicly, identifying only the names of the bidders. Technical offers and modifications shall be time stamped upon receipt and held in a secure place until the established due date. After the date established for receipt of bids, a register of bids shall be open to public inspection and shall include the name of each bidder, and a description sufficient to identify the supply, service, or construction item offered. Prior to the award of the selection of the lowest responsive and responsible bidder following phase two, technical offerors shall be shown only to purchasing agency personnel having a legitimate interest in them. Bidders may request nondisclosure of trade secrets and other proprietary data identified in writing.

(4) Evaluation of Unpriced Technical Offers. The unpriced technical offers submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the Invitation for Bids. The unpriced technical offers shall be categorized as:

(a) acceptable;

(b) potentially acceptable, that is, reasonably susceptible of being made acceptable; or

(c) unacceptable. The procurement officer shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.

The procurement officer may initiate phase two of the procedure if, in the procurement officer's opinion, there are sufficient acceptable unpriced technical offers to assure effective price competition in the second phase without modification or alteration of the offers. If the procurement officer finds that this is not the case, the procurement officer shall issue an amendment to the Invitation for Bids or engage in technical discussions as set forth in subsection (5) of this section.

(5) Discussion of Unpriced Technical Offers. Discussion of its technical offer may be conducted by the procurement officer with any bidder who submits an acceptable or potentially acceptable technical offer. During the course of these discussions the procurement officer shall not disclose any information derived from one unpriced technical offer to any other bidder. Once discussions are begun, any bidder who has not been notified that its offer has been finally found unacceptable may submit supplemental information modifying or otherwise amending its technical offer at any time until the closing date established by the procurement officer. This submission may be made at the request of the procurement officer or upon the bidder's own initiative.

(6) Notice of Unacceptable Unpriced Technical Offer. When the procurement officer determines a bidder's unpriced technical offer to be unacceptable, the officer shall notify the bidder. The bidders shall not be afforded an additional opportunity to supplement technical offers.

3-117 Mistakes During Multi-Step Sealed Bidding.

Mistakes may be corrected or bids may be withdrawn during phase one:

(a) before unpriced technical offers are considered;

(b) after any discussions have commenced under section 3-116(5) (procedure for Phase One of Multi- Step Sealed Bidding, Discussion of Unpriced Technical Offers); or

(c) when responding to any amendment of the Invitation for Bids. Otherwise mistakes may be corrected or withdrawal permitted in accordance with section 3-111.

3-118 Carrying Out Phase Two.

(1) Initiation. Upon the completion of phase one, the procurement officer shall either:

(a) open price bids submitted in phase one from bidders whose unpriced technical offers were found to be acceptable; provided, however, that the offers have remained unchanged, and the Invitation for Bids has not been amended; or

(b) invite each acceptable bidder to submit a price bid.

(2) Conduct. Phase two is to be conducted as any other competitive sealed bid procurement except:

(a) as specifically set forth in section 3-114 through section 3-120 of these rules; and

(b) no public notice need be given of this invitation to submit.

3-119 Procuring Governmental Produced Supplies or Services.

Purchasing agency requirements may be fulfilled by procuring supplies produced or services performed incident to programs such as industries of correctional or other governmental institutions. The procurement officer shall determine whether the supplies or services meet the purchasing agency's requirements and whether the price represents a fair market value for the supplies or services. If it is determined that the requirements cannot thus be met or the price is not fair and reasonable, the procurement may be made from the private sector in accordance with the Utah Procurement Code. When procurements are made from other governmental agencies, the private sector need not be solicited to compete against them.

3-120 Purchase of Items Separately from Construction Contract.

The procurement officer is authorized to determine whether a supply item or group of supply items shall be included as a part of, or procured separately from, any contract for construction.

3-121 Exceptions to Competitive Sealed Bid Process.

(1) The Chief Procurement Officer, head of a purchasing agency or designee may utilize alternative procurement methods to purchase items such as the following when determined to be more practicable or advantageous to the state.

(a) Used vehicles

(b) Livestock

(2) Alternative procurement methods including informal price quotations and direct negotiations may be used by the Chief Procurement Officer, head of the purchasing agency or designee for the following:

(a) Hotel conference facilities and services

(b) Speaker honorariums

(3) Subject to the provisions of Section 63F-1-205, testing of new technology for a duration not to exceed the maximum time necessary to evaluate the technology may be permitted. Public notice of the test and testing period shall be conducted under R33-3-4. Unless otherwise approved by the chief procurement officer or head of a purchasing agency, in no event shall a contract entered into under this part or any testing period

exceed twelve consecutive months. Upon conclusion of the test period:

(a) a determination has been made by the acquiring agency that the new technology is not advantageous to the acquiring agency; or

(b) an open procurement shall be conducted under these rules.

[(3)](4) Documentation of the alternative procurement method utilized shall be part of the contract file.

3-130 Reverse Auctions.

(1) Definition. In accordance with Utah Code Annotated Section 63G-6-402 a "reverse auction" means a process where:

(a) contracts are awarded in a open and interactive environment, which may include the use of electronic media; and

(b) bids are opened and made public immediately, and bidders given opportunity to submit revised, lower bids, until the bidding process is complete.

(2) Reverse auction is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated against the established criteria by the purchasing agency, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase submit their price bids through a reverse auction.

(3) Use. The reverse auction method will be used when the procurement officer deems it to the advantage of the purchasing agency.

3-131 Pre-Bid Conferences in Reverse Auctions.

Prior to the submission of unpriced technical offers, a pre-bid conference as contemplated by section 3-106 may be conducted by the procurement officer. The procurement officer may also hold a conference of all bidders in accordance with section 3-106 at any time during the evaluation of the unpriced technical offers, or to explain the reverse auction process.

3-132 Procedure for Phase One of Reverse Auctions.

(1) Form. A reverse auction shall be initiated by the issuance of an Invitation for Bids in the form required by section 3-101. In addition to the requirements set forth in section 3-101, the reverse auction Invitation for Bids shall state:

(a) that unpriced technical offers are requested;

(b) that it is a reverse auction procurement, and priced bids will be considered only in the second phase and only from those bidders whose unpriced technical offers are found acceptable in the first phase;

(c) the criteria to be used in the evaluation of the unpriced technical offers;

(d) that the purchasing agency, to the extent the procurement officer finds necessary, may conduct oral or written discussions of the unpriced technical offers;

(e) that bidders may designate those portions of the unpriced technical offers which contain trade secrets or other proprietary data which are to remain confidential; and

(f) the manner which the second phase reverse auction will be conducted.

(2) Amendments to the Invitation for Bids. After receipt of unpriced technical offers, amendments to the Invitation for Bids shall be distributed only to bidders who submitted unpriced technical offers and they shall be allowed to submit new unpriced technical offers or to amend those submitted. If, in the opinion of

the procurement officer, a contemplated amendment will significantly change the nature of the procurement, the Invitation for Bids shall be canceled in accordance with Subsection R33-3-112(1) of these rules and a new Invitation for Bids issued.

(3) Receipt and Handling of Unpriced Technical Offers. Unpriced technical offers shall be opened publicly identifying only the names of the bidders. Technical offers and modifications shall be time stamped upon receipt and held in a secure place until the established due date. After the date established for receipt of bids, a register of bids shall be open to public inspection and shall include the name of each bidder, and a description sufficient to identify the supply, service, or construction offered. Prior to the selection of the lowest bid of a responsive and responsible bidder following phase two, technical offers shall remain confidential and shall be available only to purchasing agency personnel and those involved in the selection process having a legitimate interest in them.

(4) Non-Disclosure of Proprietary Data. Bidders may request nondisclosure of trade secrets and other proprietary data identified in writing. If a bidder has requested in writing the non-disclosure of trade secrets and other proprietary data so identified, the procurement officer shall examine the request in the proposal to determine its validity prior to the beginning of phase two. If the parties do not agree as to the disclosure of data, the procurement officer shall inform the bidder in writing what portion of the bid will be disclosed and that, unless the bidder withdraws the bid it will be disclosed.

(5) Evaluation of Unpriced Technical Offers. The unpriced technical offers submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the Invitation for Bids. The unpriced technical offers shall be categorized as:

- (a) acceptable;
- (b) potentially acceptable, that is, reasonably susceptible of being made acceptable; or
- (c) unacceptable. The procurement officer shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.

The procurement officer may initiate phase two of the procedure if, in the procurement officer's opinion, there are sufficient acceptable unpriced technical offers to assure effective price competition in the second phase without modification or alteration of the offers. If the procurement officer finds that this is not the case, the procurement officer shall issue an amendment to the Invitation for Bids or engage in technical discussions as set forth in subsection (6) of this section.

(6) Discussion of Unpriced Technical Offers. Discussion of its technical offer may be conducted by the procurement officer with any bidder who submits an acceptable or potentially acceptable technical offer. During the course of these discussions the procurement officer shall not disclose any information derived from one unpriced technical offer to any other bidder. Once discussions are begun, any bidder who has not been notified that its offer has been finally found unacceptable may submit supplemental information modifying or otherwise amending its technical offer at any time until the closing date established by the procurement officer. This submission may be made at the request of the procurement officer or upon the bidder's own initiative.

(7) Notice of Unacceptable Unpriced Technical Offer. When the procurement officer determines a bidder's unpriced technical offer is unacceptable, the officer shall notify the bidder.

After this notification the bidder shall not be afforded an additional opportunity to modify their technical offer.

3-133 Carrying Out Phase Two of Reverse Auctions.

(1) Upon the completion of phase one, the procurement officer shall invite those technically qualified bidders to participate in phase two of the reverse auction which is an open and interactive process where pricing is submitted, made public immediately, and bidders are given opportunity to submit revised, lower bids, until the bidding process is closed.

(2) The invitation for bids shall:

- (a) establish a date and time for the beginning of phase two;
- (b) establish a closing date and time. The closing date and time need not be a fixed point in time, but may remain dependent on a variable specified in the invitation for bids.

(3) Following receipt of the first bid after the beginning of phase two, the lowest bid price shall be posted, either manually or electronically, and updated as other bidders submit their bids.

(a) At any time before the closing date and time a bidder may submit a lower bid, provided that the price is below the then lowest bid.

(b) Bid prices may not be increased after the beginning of phase two.

3-134 Mistakes During Reverse Auctions.

(1) Mistakes may be corrected or bids may be withdrawn during phase one:

- (a) before unpriced technical offers are considered;
- (b) after any discussions have commenced under section 3-132(5) (procedure for Phase One of Reverse Auctions, Discussion of Unpriced Technical Offers); or
- (c) when responding to any amendment of the Invitation for Bids. Otherwise mistakes may be corrected or withdrawal permitted in accordance with section 3-111.

(2) A phase two bid may be withdrawn only in accordance with 3-111. If a bid is withdrawn, a later bid submitted by the same bidder may not be for a higher price. If the lowest responsive bid is withdrawn after the closing date and time, the procurement officer may cancel the solicitation or reopen phase two bidding to all bidders deemed technically qualified through phase one by giving notice to those bidders of the new date and time for the beginning of phase two and the new closing date and time.

R33-3-2. Competitive Sealed Proposals.

3-201 Use of Competitive Sealed Proposals.

(1) Appropriateness. Competitive sealed proposals may be a more appropriate method for a particular procurement or type of procurement than competitive sealed bidding, after consideration of factors such as:

- (a) whether there may be a need for price and service negotiation;
- (b) whether there may be a need for negotiation during performance of the contract;
- (c) whether the relative skills or expertise of the offerors will have to be evaluated;
- (d) whether cost is secondary to the characteristics of the product or service sought, as in a work of art; and
- (e) whether the conditions of the service, product or delivery conditions are unable to be sufficiently described in the Invitation for Bids.

(2) Determinations.

(a) Except as provided in Section 63G-6-408 of the Utah Procurement Code, before a solicitation may be issued for competitive sealed proposals, the procurement officer shall determine in writing that competitive sealed proposals is a more appropriate method for contracting than competitive sealed bidding.

(b) The procurement officer may make determinations by category of supply, service, or construction item rather than by individual procurement. Procurement of the types of supplies, services, or construction so designated may then be made by competitive sealed proposals without making the determination competitive sealed bidding is either not practicable or not advantageous. The officer who made the determination may modify or revoke it at any time and the determination should be reviewed for current applicability from time to time.

(3) Professional Services. For procurement of professional services, whenever practicable, the competitive sealed proposal process shall be used. Examples of professional services generally best procured through the RFP process are accounting and auditing, court reporters, x-ray technicians, legal, medical, nursing, education, actuarial, veterinarians, and research. The procurement officer will make the determination. Architecture and engineering professional services are to be procured in compliance with R33-5-510.

3-202 Content of the Request for Proposals.

The Request for Proposals shall be prepared in accordance with section 3-101 provided that it shall also include:

(a) a statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without discussions; and

(b) a statement of when and how price should be submitted.

3-203 Proposal Preparation Time.

Proposal preparation time shall be set to provide offerors a reasonable time to prepare their proposals. A minimum of 10 calendar days shall be provided unless a shorter time is deemed necessary for a particular procurement as determined in writing by the procurement officer.

3-204 Form of Proposal.

The manner in which proposals are to be submitted, including any forms for that purpose, may be designated as a part of the Request for Proposals.

3-204.1 Protected Records.

The following are protected records and will be redacted subject to the procedures described below. From any public disclosure of records as allowed by the Governmental Records Access and Management Act (GRAMA) Title 63G, Chapter 2 of the Utah Code. The protections below apply to the various procurement records including records submitted by offerors and their subcontractors or consultants at any tier.

(a) Trade Secrets. Trade Secrets, as defined in Section 13-24-2, will be protected and not be subject to public disclosure if the procedures of R33-3-204.2 are met.

(b) Certain commercial information or nonindividual financial information. Commercial information or nonindividual financial information subject to the provisions of Section 63G-2-305(2) will be a protected record and not be subject to public disclosure if the procedures of R33-3-204.2 are met.

(c) Other Protected Records under GRAMA. There will be no public disclosure of other submitted records that are subject to non-disclosure or being a protected record under a GRAMA statute provided that the requirements of R33-3-204.2 are met unless GRAMA requires such nondisclosure without any preconditions.

3-204.2 Process For Requesting Non-Disclosure. Any person (firm) who believes that a record should be protected under R33-3-204.1 shall include with their proposal or submitted document:

(a) a written indication of which provisions of the submittal(s) are claimed to be considered for business confidentiality (including trade secret or other reason for non-disclosure under GRAMA; and

(b) a concise statement of reasons supporting each claimed provision of business confidentiality.

3-204.3 Notification. The person who complies with R33-3-204.2 shall be notified by the governmental entity prior to the public release of any information for which business confidentiality has been asserted.

3-204.4 Non-Disclosure and Dispute Process. Except as provided by court order, the governmental entity to whom the request for a record is made under GRAMA, may not disclose a record claimed to be protected under R33-3-204.1 but which the governmental entity or State Records Committee determines should be disclosed until the period in which to bring an appeal expires or the end of the appeals process, including judicial appeal. This R33-3-204.4 does not apply where the claimant, after notice, has waived the claim by not appealing or intervening before the records committee. To the extent provided by law, the parties to a dispute regarding the release of a record may agree in writing to an alternative dispute resolution process.

3-204.5 Timing of Public Disclosure. Any allowed public disclosure of records submitted in the competitive sealed proposal process will only be made after the selection of the successful offeror(s) has been made public.

3-205 Public Notice.

Public notice shall be given by distributing the Request for Proposals in the same manner provided for distributing an Invitation for Bids under section 3-104.

3-206 Pre-Proposal Conferences.

Pre-proposal conferences may be conducted in accordance with section 3-106. Any conference should be held prior to submission of initial proposals.

3-207 Amendments to Request for Proposals.

Amendments to the Request for Proposals may be made in accordance with section 3-107 prior to submission of proposals. After submission of proposals, amendments to the Request for Proposals shall be distributed only to offerors who submitted proposals and they shall be allowed to submit new proposals or to amend those submitted. An amendment to the Request for Proposals may be issued through a request for submission of Best and Final Offers. If, in the opinion of the procurement officer, a contemplated amendment will significantly change the nature of the procurement, the Request for Proposals shall be canceled and a new Request for Proposals issued.

3-208 Modification or Withdrawal of Proposals.

Proposals may be modified or withdrawn prior to the established due date in accordance with section 3-108. For the purposes of this section and section 3-209, the established due date

is either the date and time announced for receipt of proposals or receipt of modifications to proposals, if any; or if discussions have begun, it is the date and time by which best and final offers must be submitted, provided that only offerors who submitted proposals by the time announced for receipt of proposals may submit best and final offers.

3-209 Late Proposals, Late Withdrawals, and Late Modifications.

(1) Definition. Except for modification allowed pursuant to negotiation, any proposal, withdrawal, or modification received after the established due date and time at the place designated for receipt of proposals is late.

(2) Treatment. No late proposal, late modification, or late withdrawal will be considered unless received before contract award, and the late proposal would have been timely but for the action or inaction of personnel directly serving the procurement activity.

(3) Records. All documents shall be kept relating to the acceptance of any late proposal, modification or withdrawal.

3-210 Receipt and Registration of Proposals.

(1) Proposals shall be opened publicly, identifying only the names of the offerors. Proposals submitted through electronic means shall be received in such a manner that the time and date of submittal, along with the contents of such proposals shall be securely stored until the time and date set for opening. Proposals and modifications shall be time stamped upon receipt and held in a secure place until the established due date. After the date established for receipt of proposals, a register of proposals shall be open to public inspection and shall include for all proposals the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply, service, or construction item offered. Prior to award proposals and modifications shall be shown only to purchasing agency personnel having a legitimate interest in them.

3-211 Evaluation of Proposals.

(1) Evaluation Factors in the Request for Proposals. The Request for Proposals shall state all of the evaluation factors and their relative importance, including price.

(2) Evaluation. The evaluation shall be based on the evaluation factors set forth in the Request for Proposals. Numerical rating systems may be used but are not required. Factors not specified in the Request for Proposals shall not be considered in determining award of contract.

(3) Classifying Proposals. For the purpose of conducting discussions under section 3-212, proposals shall be initially classified as:

- (a) acceptable;
- (b) potentially acceptable, that is, reasonably susceptible of being made acceptable; or
- (c) unacceptable.

3-212 Proposal Discussion with Individual Offerors.

(1) "Offerors" Defined. For the purposes of this section, the term "offerors" includes only those businesses submitting proposals that are acceptable or potentially acceptable. The term shall not include businesses which submitted unacceptable proposals.

(2) Purposes of Discussions. Discussions are held to facilitate and encourage an adequate number of potential contractors

to offer their best proposals, by amending their original offers, if needed.

(3) Conduct of Discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. The procurement officer should establish procedures and schedules for conducting discussions. If before, or during discussions there is a need for clarification or change of the Request for Proposals, it shall be amended in compliance with R33-3-2(3-207) to incorporate this clarification or change. Auction techniques and disclosure of any information derived from competing proposals are prohibited. Any oral clarification or change of a proposal shall be reduced to writing by the offeror.

(4) Best and Final Offers. The procurement officer shall establish a common time and date for submission of best and final offers. Best and final offers shall be submitted only once unless the procurement officer makes a written determination before each subsequent round of best and final offers demonstrating another round is in the purchasing agency's interest, and additional discussions will be conducted or the purchasing agency's requirements will be changed. Otherwise, no discussion of, or changes in, the best and final offers shall be allowed prior to award. Offerors shall also be informed that if they do not submit a notice of withdrawal or another best and final offer, their immediate previous offer will be construed as their best and final offer.

3-213 Mistakes in Proposals.

(1) Mistakes Discovered Before the Established Due Date. An offeror may correct mistakes discovered before the time and date established for receipt of proposals by withdrawing or correcting the proposal as provided in section 3-208.

(2) Confirmation of Proposal. When it appears from a review of the proposal before award that a mistake has been made, the offeror should be asked to confirm the proposal. If the offeror alleges mistake, the proposal may be corrected or withdrawn during any discussions that are held or if the conditions set forth in subsection (3) of this section are met.

(3) Mistakes Discovered After Receipt But Before Award. This subsection sets forth procedures to be applied in four situations in which mistakes in proposals are discovered after receipt of proposals but before award.

(a) During Discussions; Prior to Best and Final Offers. Once discussions are commenced with any offeror or after best and final offers are requested, any offeror may freely correct any mistake by modifying or withdrawing the proposal until the time and date set for receipt of best and final offers.

(b) Minor Informalities. Minor informalities, unless otherwise corrected by an offeror as provided in this section, shall be treated as they are under competitive sealed bidding.

(c) Correction of Mistakes. If discussions are not held or if the best and final offers upon which award will be made have been received, mistakes may be corrected and the correct offer considered only if:

(i) the mistake and the correct offer are clearly evident on the face of the proposal in which event the proposal may not be withdrawn; or

(ii) the mistake is not clearly evident on the face of the proposal, but the offeror submits proof of evidentiary value which clearly and convincingly demonstrates both the existence of a

mistake and the correct offer and the correction would not be contrary to the fair and equal treatment of other offerors.

(d) Withdrawal of Proposals. If discussions are not held, or if the best and final offers upon which award will be made have been received, the offeror may be permitted to withdraw the proposal if:

(i) the mistake is clearly evident on the face of the proposal and the correct offer is not; or

(ii) the offeror submits proof of evidentiary value which clearly and convincingly demonstrates that a mistake was made but does not demonstrate the correct offer or, if the correct offer is also demonstrated, to allow correction on the basis that the proof would be contrary to the fair and equal treatment of other offerors.

(4) Mistakes Discovered After Award. Mistakes shall not be corrected after award of the contract.

3-214 Award.

(1) Award Documentation. A brief written justification statement shall be made showing the basis on which the award was found to be most advantageous to the state taking into consideration price and the other evaluation factors set forth in the Request for Proposals.

(2) One Proposal Received. If only one proposal is received in response to a Request for Proposals, the procurement officer may, as the officer deems appropriate, either make an award or, if time permits, resolicit for the purpose of obtaining additional competitive sealed proposals.

3-215 Publicizing Awards.

(1) After the selection of the successful offeror(s), notice of award shall be available in the purchasing agency's office and may be available on the internet.

(2) The following shall be disclosed to the public after notice of the selection of the successful offeror(s) and after receipt of a GRAMA request and payment of any lawfully enacted and applicable fees:

(a) the contract(s) entered into as a result of the selection and the successful proposal(s), except for those portions that are to be non-disclosed under R33-3-204;

(b) the unsuccessful proposals, except for those portions that are to be non-disclosed under R33-3-204;

(c) the rankings of the proposals;

(d) the names of the members of any selection committee (reviewing authority);

(e) the final scores used by the selection committee to make the selection, except that the names of the individual scorers shall not be associated with their individual scores or rankings.

(f) the written justification statement supporting the selection, except for those portions that are to be non-disclosed under R33-3-204.

(3) After due consideration and public input, the following has been determined by the Procurement Policy Board to impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, and will not be disclosed by the governmental entity at any time to the public including under any GRAMA request:

(a) the names of individual scorers in relation to their individual scores or rankings;

(b) non-public financial statements; and

(c) past performance and reference information, which is not provided by the offeror and which is obtained as a result of the efforts of the governmental entity. To the extent such past performance or reference information is included in the written justification statement, it is subject to public disclosure.

3-216 Exceptions to Competitive Sealed Proposal Process.

(1) As authorized by Section 63G-6-408(1) the Chief Procurement Officer or designee may determine that for a given request it is either not practicable or not advantageous for the state to procure a commodity or service referenced in section 3-201 above by soliciting competitive sealed proposals. When making this determination, the Chief Procurement Officer may take into consideration whether the potential cost of preparing, soliciting and evaluating competitive sealed proposals is expected to exceed the benefits normally associated with such solicitations. In the event [of] that it is so determined, the Chief Procurement Officer, head of a purchasing agency or designee may elect to utilize an alternative, more cost effective procurement method, which may include direct negotiations with a qualified vendor or contractor.

(2) Subject to the provisions of Section 63F-1-205, testing of new technology for a duration not to exceed the maximum time necessary to evaluate the technology may be permitted. Public notice of the test and testing period shall be conducted under R33-3-4. Unless otherwise approved by the chief procurement officer or head of a purchasing agency, in no event shall a contract entered into under this part or any testing period exceed twelve consecutive months. Upon conclusion of the test period:

(a) a determination has been made by the acquiring agency that the technology is not advantageous to the acquiring agency; or

(b) an open procurement shall be conducted under these rules.

([2]3) Documentation of the alternative procurement method selected shall state the reasons for selection and shall be made a part of the contract file.

3-217 Multiple Award Contracts for Human Service Provider Services.

The Chief Procurement Officer, head of a purchasing agency or designee may elect to award multiple contracts for Human Service Provider Services through a competitive sealed proposal process by first determining the appropriate fee to be paid to providers and then contracting with all providers meeting the criteria established in the RFP. However this specialized system of contracting for human service provider services may only be used when:

(1) The agency has performed an appropriate analysis to determine appropriate rates to be paid;

(2) The agency files contain adequate documentation of the reasons the contractor was awarded the contract and the reasons for selecting a particular contractor to provide the service to each client; and

(3) The agency has a formal written complaint and appeal process, notice of which is provided to the contractors, and an internal audit function to insure that selection of the contractor from the list of awarded contractors was fair, equitable and appropriate.

R33-3-4. Sole Source Procurement.

3-401 Conditions For Use of Sole Source Procurement.

Sole source procurement shall be used only if a requirement is reasonably available from a single supplier. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror for that item.

Examples of circumstances which could necessitate sole source procurement are:

- (1) where the compatibility of equipment, accessories, replacement parts, or service is the paramount consideration;
- (2) where a sole supplier's item is needed for trial use or testing;
- (3) a test or pilot is being conducted under R33-3-121(3);
- ~~(3)4~~ procurement of items for resale;
- ~~(4)5~~ procurement of public utility services.

The determination as to whether a procurement shall be made as a sole source shall be made by the procurement officer. Each request shall be submitted in writing by the using agency. The officer may specify the application of the determination and its duration. In cases of reasonable doubt, competition should be solicited. Any request by a using agency that a procurement be restricted to one potential contractor shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.

3-401.5 Notice of Proposed Sole Source Procurement.

Public notice for sole source procurements exceeding \$50,000 shall be given by the Procurement Officer as provided in R33-3-104 (2). The notice shall be published at least 5 working days in advance of when responses must be received in order that firms have an adequate opportunity to respond to the notice. The notice shall contain a brief statement of the proposed procurement, the proposed sole source supplier and the sole source justification. The notice shall invite comments regarding the proposed sole source and provide for a closing date for comments. The Procurement Officer shall consider the comments received before proceeding with the Sole Source procurement.

3-402 Negotiation in Sole Source Procurement.

The procurement officer shall conduct negotiations, as appropriate, as to price, delivery, and terms.

3-403 Unsolicited Offers.

(1) Definition. An unsolicited offer is any offer other than one submitted in response to a solicitation.

(2) Processing of Unsolicited Offers. If a purchasing agency that receives an unsolicited offer is not authorized to enter into a contract for the supplies or services offered, the head of the agency shall forward the offer to the procurement officer who has authority with respect to evaluation, acceptance, and rejection of the unsolicited offers.

(3) Conditions for Consideration. To be considered for evaluation an unsolicited offer:

(a) must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the purchasing agency; and

(b) may be subject to testing under terms and conditions specified by the agency.

KEY: government purchasing

Date of Enactment or Last Substantive Amendment: ~~July 8, 2010~~ 2012

Notice of Continuation: November 23, 2007

Authorizing, and Implemented or Interpreted Law: 63G-6

Agriculture and Food, Plant Industry R68-21 Standard of Identity for Honey

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 35566

FILED: 12/21/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule will become Rule R70-520. (DAR NOTE: The proposed new Rule R70-520 is under DAR No. 35612 in this issue, January 15, 2012, of the Bulletin.)

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

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-5-16 and Subsection 4-2-2-1(g) and Subsection 4-5-6(1)(b) and Subsection 4-5-8(5)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There will be no impact on the state budget, this only affects the numbering.
- ◆ **LOCAL GOVERNMENTS:** The rule places no responsibilities on local government, this only affects the numbering.
- ◆ **SMALL BUSINESSES:** There will be no impact on small business, this only affects the numbering.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no impact on persons other than small business, this only affects the numbering.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no costs to this repeal, this only affects the numbering.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is repealed and will become Rule R70-520.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 01/11/2012 10:00 AM, Utah Department of Agriculture and Food, 350 N Redwood Rd, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 03/01/2012

AUTHORIZED BY: Leonard Blackham, Commissioner

R68. Agriculture and Food, Plant Industry.**[R68-21. Standard of Identity for Honey.****R68-21-1. Purpose.**

~~The purpose of this rule is to establish a standard of identity for honey that is produced, packed, repacked, distributed and sold in Utah. Codification of this standard is meant to reduce economic fraud by controlling the pervasive, illegal practice of blending or diluting pure honey with low-cost syrups such as sugar, cane and corn.~~

R68-21-2. Authority.

~~This rule is promulgated under the authority of Subsections 4-2-2(1)(g), 4-5-8(5), 4-5-6(1)(b), and Section 4-5-16 of the Utah Code.~~

R68-21-3. Definitions.

~~(1) "Honey" means the natural sweet substance produced by honeybees from nectar of plants or from secretions of living parts of plants which the bees collect, transform by combining with specific substances of their own, then deposit, dehydrate, store, and leave in the honeycomb to ripen and mature.~~

~~(2) "Blossom Honey" or "Nectar Honey" means honey that comes from the nectar of plants.~~

~~(3) "Comb" or "Comb honey" means honey stored by bees in the cells of freshly built broodless combs and sold in sealed whole combs or sections of such combs.~~

R68-21-4. Standard of Identification for Honey.

~~(1) Honey shall meet the following standards:~~

~~(a) honey may not be heated or processed to such an extent that its essential composition is changed or its quality is impaired;~~

~~(b) chemical or biochemical treatments may not be used to influence honey crystallizations;~~

~~(c) honey may not contain more than 20 percent moisture content and for heather honey not more than 23 percent;~~

~~(d) honey may be not less than 60 percent fructose and glucose, combined; the ratio of fructose to glucose shall not be greater than 0.9;~~

~~(e) honey may not contain oligosaccharides indicative of invert syrup;~~

~~(f) honey, except for honeycomb and cut comb style honey, may not contain more than 0.5g/1000g water insoluble solids.~~

R68-21-5. Standard of Identification for Blossom Honey.

~~(1) Blossom honey shall meet the standards for honey in R68-21-4;~~

~~(2) Blossom honey shall not contain more than 5 percent sucrose, except for the following:~~

~~(a) alfalfa (*Medicago sativa*), citrus spp, false acacia (*Robinia pseudoacacia*), French Honeysuckle (*Hedysarum*), Menzies banksias (*Banksia menziesii*), red gum (*Eucalyptus camaldulensis*), leatherwood (*Eucalyptus lucida*), and *Eucryphia milligani* may contain up to 10 percent sucrose.~~

~~(b) lavender (*Lavandula* spp) and borage (*Borago officinalis*) may contain up to 15 percent sucrose.~~

R68-21-6. Food Labeled as Honey.

~~(1) Food meeting the standards set forth in R68-21-4 and R68-21-5 shall be designated "honey".~~

~~(2) Food containing honey plus flavoring, spice or food additive shall be distinguished in the food name from honey by declaration of all of the added ingredients.~~

~~(3) Food containing honey which is processed in such a way that materially changes the flavor, color, viscosity or other material characteristics of the honey shall be distinguished in the food name from honey by declaration of the modification.~~

~~(4) Food containing honey may be designated according to floral or plant source if the honey comes predominately from that particular source and has the organoleptic, physicochemical and microscopic properties corresponding with that origin.~~

~~(a) Food designated according to the honey's floral source plant shall have the common name or the botanical name of the floral source in close proximity on the label to the word "honey".~~

~~(5) Honey may be designated according to the following styles:~~

~~(a) honey in liquid or crystalline state or a mixture of the two may be designated as "liquid" or "crystalline";~~

~~(b) honey meeting the definition of "comb" or "comb honey"; or~~

~~(c) honey containing one or more pieces of comb honey may be designated as "honey with comb" or "chunk honey".~~

R68-21-7. Misbranded Food.

~~Food labeled as a honey, but not meeting the standard of identification or a labeling requirement in Sections four through six of this rule shall be deemed to be misbranded.~~

R68-21-8. False Food Advertisement.

~~Food advertised as honey shall be considered falsely advertised if it does not meet the standard of identification or a labeling requirement in Sections four through six of this rule.~~

~~R68-21-9. Embargo and Destruction of Misbranded Food.~~

~~When an authorized agent of the department finds or has cause to believe a honey product is misbranded, the agent may follow the tagging, embargo and destruction procedures found in Title 4-5-5 UCA.~~

~~KEY: honey~~

~~Date of Enactment or Last Substantive Amendment: October 12, 2010~~

~~Authorizing, and Implemented or Interpreted Law: 4-2-2(1)(g); 4-5-8(5); 4-5-6(1)(b); 4-5-16]~~

Agriculture and Food, Regulatory
Services
R70-520
Standard of Identity and Labeling
Requirements for Honey

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 35612

FILED: 01/03/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to implement raw honey definition and labeling provisions made into law in the 2011 General Session. The rule also replaces Rule R68-21, Standard of Identity for Honey. (DAR NOTE: The proposed repeal of Rule R68-21 is under DAR No. 35566 in this issue, January 15, 2012, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This new rule: a) defines raw honey; b) defines pasteurized honey; c) provides criteria for labeling raw honey; d) requires non-floral honey to be labeled non-floral; and e) provides a standard of identity for honey.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-5-15 and Section 4-5-20 and Subsection 4-2-2-1(g) and Subsection 4-5-15(l) and Subsection 4-5-6(1)(b) and Subsection 4-5-8(5)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: The Legislature allocated \$8,000 for the enforcement of the new law. Thus, any enforcement has, to this degree, been covered in the Department's budget.

♦ LOCAL GOVERNMENTS: This rule places no responsibilities on local government. There should be no cost or savings to them.

♦ SMALL BUSINESSES: Honey producers will be the only impacted group. Our research indicates that Utah honey producers already follow these requirements. Honey producers from other states and nations may incur costs. This was not able to be determined.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed rule only applies to producers of honey. No other persons will be impacted.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There could be compliance costs for honey producers not in Utah. In our discussions with industry thus far, no costs have been identified.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is required by Legislative amendments to the Utah Wholesome Food Act. The Division has not identified costs to Utah producers, and will continue to research this and respond accordingly.

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

AGRICULTURE AND FOOD
REGULATORY SERVICES

350 N REDWOOD RD

SALT LAKE CITY, UT 84116-3034

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov

♦ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov

♦ Richard Clark by phone at 801-538-7150, by FAX at 801-538-7126, or by Internet E-mail at richardwclark@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/01/2012

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 02/13/2012 09:30 AM, Utah Department of Agriculture and Food, 350 N Redwood Road, Main Conference Room, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 03/09/2012

AUTHORIZED BY: Leonard Blackham, Commissioner

R70. Agriculture and Food, Regulatory Services.

R70-520. Standard of Identity and Labeling Requirements for Honey.

R70-520-1. Purpose.

The purpose of this rule is to establish a standard of identity and labeling requirements for honey that is produced, packed, repacked, distributed and sold in Utah. Codification of this standard is meant to reduce economic fraud by controlling the pervasive, illegal practices of blending or diluting pure honey with low-cost syrups such as sugar, cane and corn, and representing highly processed honey as raw honey.

R70-520-2. Authority.

This rule is promulgated under the authority of Sections 4-2-2-1(g), 4-5-8-5, 4-5-6-1b, 4-5-16, 4-5-15(1) and 4-5-20 of the UCA.

R70-520-3. Definitions.

(1) "Honey" means the natural sweet substance produced by honeybees from nectar of plants or from secretions of living parts of plants which the bees collect, transform by combining with specific substances of their own, then deposit, dehydrate, store, and leave in the honeycomb to ripen and mature.

(2) "Blossom Honey" or "Nectar Honey" means honey that comes from the nectar of plants.

(3) "Comb" or "Comb honey" means honey stored by bees in the cells of freshly built broodless combs and sold in sealed whole combs or sections of such combs.

(4) "Pasteurized" means heated to 105 deg F or above.

(5) "Raw honey" means honey:

(a) as it exists in the beehive; or

(b) as obtained, without being pasteurized, by extraction, settling, or straining without the use of rare earth filters.

R70-520-4. Standard of Identification for Honey.

(1) Honey shall meet the following standards:

(a) honey may not be heated or processed to such an extent that its essential composition is changed or its quality is impaired;

(b) chemical or biochemical treatments may not be used to influence honey crystallizations;

(c) honey may not contain more than 20 percent moisture content and for heather honey not more than 23 percent;

(d) honey may be not less than 60 percent fructose and glucose, combined; the ratio of fructose to glucose shall not be greater than 0.9;

(e) honey may not contain oligosaccharides indicative of invert syrup;

(f) honey, except for honeycomb and cut comb style honey, may not contain more than 0.5g/1000g water insoluble solids.

R70-520-5. Standard of Identification for Blossom Honey.

(1) Blossom honey shall meet the standards for honey in R70-520-4;

(2) Blossom honey shall not contain more than 5 percent sucrose, except for the following:

(a) alfalfa (*Medicago sativa*), citrus spp, false acacia (*Robinia pseudoacacia*), French Honeysuckle (*Hedysarum*), Menzies banksias (*Banksia menziesii*), red gum (*Eucalyptus camaldulensis*), leatherwood (*Eucalyptus lucida*), and *Eucryphia milligani* may contain up to 10 percent sucrose.

(b) lavender (*Lavandula* spp) and borage (*Borago officinalis*) may contain up to 15 percent sucrose.

R70-520-6. Food Labeled as Honey or Raw Honey.

(1) Food meeting the standards set forth in Sections R70-520-4 and R70-520-5 may be designated "honey".

(a) The food may be labeled as "raw honey" if it additionally meets Subsection R70-520-3(5).

(2) Food containing honey plus flavoring, spice or food additive shall be distinguished in the food name from honey by declaration of all of the added ingredients.

(3) Food containing honey which is processed in such a way that materially changes the flavor, color, viscosity or other material characteristics of the honey.

(4) Food containing honey may be designated according to floral or plant source if the honey comes predominately from that particular source and has the organoleptic, physicochemical and microscopic properties corresponding with that origin.

(a) Food designated according to the honey's floral source plant shall have the common name or the botanical name of the floral source in close proximity on the label to the word "honey".

(1) The food label may include the word "raw" if it meets Subsection R70-520-3(5).

(b) Food meeting the standards set forth in Sections R70-520-4 and R70-520-5, except that the honey is not from nectar of plants or from secretions of living parts of plants which the bees collect, shall be distinguished in the food name from honey by adding the modification "non-floral" in close proximity to the word "honey".

(5) Honey may be designated according to the following styles:

(a) honey in liquid or crystalline state or a mixture of the two may be designated as "liquid" or "crystalline";

(b) honey meeting the definition of "comb" or "comb honey"; or

(c) honey containing one or more pieces of comb honey may be designated as "honey with comb" or "chunk honey".

(d) The designations allowed in this section may have the word "raw" added if the honey meets Subsection R70-520-3(5).

(6) Labels shall meet the requirements of Section 4-5-15 UCA.

R70-520-7. Misbranded Food.

Food labeled as a honey or raw honey, but not meeting the standard of identification or a labeling requirement in Sections four through six of this rule shall be deemed to be misbranded.

R70-520-8. False Food Advertisement.

Food advertised as honey or raw honey shall be considered falsely advertised if it does not meet the standard of identification or a labeling requirement in Sections four through six of this rule.

R70-520-9. Embargo and Destruction of Misbranded Food.

When an authorized agent of the department finds or has cause to believe a honey product is misbranded, the agent may follow the tagging, embargo and destruction procedures found in Section 4-5-5 UCA.

KEY: honey**Date of Enactment or Last Substantive Amendment: 2012****Authorizing, and Implemented or Interpreted Law: 4-2-2-1(g); 4-5-8-5; 4-5-6-1b; 4-5-16; 4-5-15-1; 4-5-20**

**Alcoholic Beverage Control,
Administration
R81-1-6
Violation Schedule**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35588

FILED: 12/30/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed rule amendment is required because substantive changes to the violation grid have been made that establish or adjust the degree of seriousness of a violation. The substantive changes are the result of the recodification of the Alcoholic Beverage Control Act from Title 32A to 32B (S.B. 167 passed in the 2010 General Session) which was effective 07/01/2011, and new and modified provisions of Title 32B (S.B. 314 and S.B. 2002 passed by the 2011 Legislature). The updated violation grid is incorporated by reference as part of this rule as the "November 2011 edition".

SUMMARY OF THE RULE OR CHANGE: The statutory references for each violation have been updated from Title 32A to 32B due to the recodification of the Alcoholic Beverage Control Act (S.B. 167 passed in the 2010 General Session) which was effective 07/01/2011 and each section of the grid is renamed and renumbered to match up with Title 32B. Violations have been added to coincide with the new and modified provisions of Title 32B (S.B. 314 and S.B. 2002 passed by the 2011 Legislature) for each license type. Three new sections have been added: one for the Resort License created by S.B. 187 passed by the 2009 Legislature, and two for the new licenses created by S.B. 314, passed by the 2011 Legislature; Beer Only Restaurant, and Reception Center. These new sections contain analogous violations that pertain to existing licenses and new violations specific to the new licenses. Degrees of seriousness have been established for the newly added violations that are analogous to the degrees of seriousness for existing violations. For example: the penalty for allowing consumption during prohibited hours has existed in the club section in previous editions of the grid with a degree of "serious". S.B. 314 made this a violation for all retail licenses and event permits, so the violation has been added to each retail and event permit license section in the grid with an assigned degree of "serious". All degrees of seriousness for trade practice violations in the Local Industry Representative section have been changed to "grave" as required in Subsection R81-1-6(4)(d) of the rule and to correct an error in the previous edition of the violation grid. Degrees of seriousness of violations that existed in the previous edition of the violation grid have not been changed. All violations with the established degrees of seriousness that have been added to the violation grid are highlighted in yellow

in the edition of the violation grid document that is incorporated by reference.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32B-2-202 and Section 32B-3-203 and Section 32B-3-204 and Section 32B-3-205

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates Alcoholic Beverage Control Commission Violation Grid, published by Department of Alcoholic Beverage Control, January 2012

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** None--The cost to the state is in holding violation hearings. The cost is the same regardless of the classification of the violation.
- ◆ **LOCAL GOVERNMENTS:** None--This rule amendment affects the DABC's adjudication of violations. The proceedings take place on the state level and do not affect local governments.
- ◆ **SMALL BUSINESSES:** Many licensees and permittees are small businesses with fewer than 50 employees. Though it is not possible to determine an exact dollar amount, this amendment may affect those restaurants, clubs, and other DABC licensees and permittees that are cited for a violation and may have to suffer a fine and or a suspension.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Though it is not possible to determine an exact dollar amount, this amendment may affect employees of licensees and permittees who are cited for a violation and who may have to pay a fine or serve a suspension of employment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--There are no compliance costs involved in this proposed amendment. Existing adjudication procedures and violation penalty ranges have not been modified by this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be a fiscal impact on businesses cited for a violation of The Alcoholic Beverage Control Act if the adjudication of a violation results in a fine and/or suspension. The resultant fine and/or suspension will negatively affect businesses and their employees. However, this fiscal impact was contemplated by legislation that necessitated this proposed rule amendment (S.B. 187 passed by the 2009 Legislature; S.B. 167 passed by the 2010 Legislature; and S.B. 314 and S.B. 2002 passed by the 2011 Legislature).

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:

♦ Earl Dorius by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at edorius@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2012

AUTHORIZED BY: Francine Giani, Executive Director

R81. Alcoholic Beverage Control, Administration.**R81-1. Scope, Definitions, and General Provisions.****R81-1-6. Violation Schedule.**

(1) Authority. This rule is pursuant to Sections 32B-2-202(1)(c)(i), 32B-2-202(1) and (3), 32B-2-202(2)(b) and (c), and 32B-3-101 to -207. These provisions authorize the commission to establish criteria and procedures for imposing sanctions against licensees and permittees and their officers, employees and agents who violate statutes and commission rules relating to alcoholic beverages. For purposes of this rule, holders of certificates of approval are also considered licensees. The commission may revoke or suspend the licenses or permits, and may impose a fine against a licensee or permittee in addition to or in lieu of a suspension. The commission also may impose a fine against an officer, employee or agent of a licensee or permittee. Violations are adjudicated under procedures contained in Section 32B-3-101 to -207 and disciplinary hearing Section R81-1-7.

(2) General Purpose. This rule establishes a schedule setting forth a range of penalties which may be imposed by the commission for violations of the alcoholic beverage laws. It shall be used by department decision officers in processing violations, and by presiding officers in charging violations, in assisting parties in settlement negotiations, and in recommending penalties for violations. The schedule shall be used by the commission in rendering its final decisions as to appropriate penalties for violations.

(3) Application of Rule.

(a) This rule governs violations committed by all commission licensees and permittees and their officers, employees and agents except single event permittees. Violations by single event permittees and their employees and agents are processed under Section 32B-9-204 and -305.

(b) This rule does not apply to situations where a licensee or permittee fails to maintain the minimum qualifications provided by law for holding a license or permit. These might include failure to maintain a bond or insurance, or a conviction for a criminal offense that disqualifies the licensee or permittee from holding the license or permit. These are fundamental licensing and permitting requirements and failure to maintain them may result in immediate suspension or forfeiture of the license or permit. Thus, they are not processed in accordance with the Administrative Procedures Act, Title 63G, Chapter 4 or Section R81-1-7. They are administered by issuance of an order to show cause requiring the licensee or permittee to provide the commission with proof of qualification to maintain their license or permit.

(c) If a licensee or permittee has not received a letter of admonishment, as defined in Sections R81-1-2 and R81-1-7(2)(b), or been found by the commission to be in violation of Utah statutes or commission rules for a period of 36 consecutive months, its violation record shall be expunged for purposes of determining future penalties sought. The expungement period shall run from the date the last offense was finally adjudicated by the commission.

(d) In addition to the penalty classifications contained in this rule, the commission may:

(i) upon revocation of a license or permit, take action to forfeit the bond of any licensee or permittee;

(ii) prohibit an officer, employee or agent of a licensee or permittee from serving, selling, distributing, manufacturing, wholesaling, warehousing, or handling alcoholic beverages in the course of employment with any commission licensee or permittee for a period determined by the commission;

(iii) order the removal of a manufacturer's, supplier's or importer's products from the department's sales list and a suspension of the department's purchase of those products for a period determined by the commission if the manufacturer, supplier, or importer directly committed the violation, or solicited, requested, commanded, encouraged, or intentionally aided another to engage in the violation.

(iv) require a licensee to have a written responsible alcohol service plan as provided in R81-1-24.

(e) When the commission imposes a fine or administrative costs, it shall establish a date on which the payment is due. Failure of a licensee or permittee or its officer, employee or agent to make payment on or before that date shall result in the immediate suspension of the license or permit or the suspension of the employment of the officer, employee or agent to serve, sell, distribute, manufacture, wholesale, warehouse or handle alcoholic beverages with any licensee or permittee until payment is made. Failure of a licensee or permittee to pay a fine or administrative costs within 30 days of the initial date established by the commission shall result in the issuance of an order to show cause why the license or permit should not be revoked and the licensee's or permittee's compliance bond forfeited. The commission shall consider the order to show cause at its next regularly scheduled meeting.

(f) Violations of any local ordinance are handled by each individual local jurisdiction.

(4) Penalty Schedule. The department and commission shall follow these penalty range guidelines:

(a) Minor Violations. Violations of this category are lesser in nature and relate to basic compliance with the laws and rules. If not corrected, they are sufficient cause for action. Penalty range: Verbal warning from law enforcement or department compliance officer(s) to revocation of the license or permit and/or up to a \$25,000 fine. A record of any letter of admonishment shall be included in the licensee's or permittee's and the officer's, employee's or agent's violation file at the department to establish a violation history.

(i) First occurrence involving a minor violation: the penalty shall range from a verbal warning from law enforcement or department compliance officer(s), which is documented to a letter of admonishment to the licensee or permittee and the officer, employee or agent involved. Law enforcement or department

compliance officer(s) shall notify management of the licensee or permittee when verbal warnings are given.

(ii) Second occurrence of the same type of minor violation: a written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a \$100 to \$500 fine for the licensee or permittee, and a letter of admonishment to a \$25 fine for the officer, employee or agent.

(iii) Third occurrence of the same type of minor violation: a one to five day suspension of the license or permit and employment of the officer, employee or agent, and/or a \$200 to \$500 fine for the licensee or permittee and up to a \$50 fine for the officer, employee or agent.

(iv) More than three occurrences of the same type of minor violation: a six day suspension to revocation of the license or permit and a six to ten day suspension of the employment of the officer, employee or agent, and/or a \$500 to \$25,000 fine for the licensee or permittee and up to a \$75 fine for the officer, employee or agent.

(v) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the monetary penalties for each of the charges in their respective categories. If other minor violations are discovered during the same investigation, a verbal warning shall be given for each violation on a first occurrence. If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(b) Moderate Violations. Violations of this category demonstrate a general disregard for the laws or rules. Although the gravity of the acts are not viewed in the same light as in the serious and grave categories, they are still sufficient cause for action. Penalty range: Written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department on the first occurrence. The penalty shall range from a letter of admonishment to revocation of the license or permit and/or up to a \$25,000 fine.

(i) First occurrence involving a moderate violation: a written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a letter of admonishment to a \$1000 fine for the licensee or permittee, and a letter of admonishment to a \$50 fine for the officer, employee or agent.

(ii) Second occurrence of the same type of moderate violation: a three to ten day suspension of the license or permit and a three to ten day suspension of the employment of the officer, employee or agent, and/or a \$500 to \$1000 fine for the licensee or permittee and up to a \$75 fine for the officer, employee or agent.

(iii) Third occurrence of the same type of moderate violation: a ten to 20 day suspension of the license or permit and a ten to 20 day suspension of the employment of the officer, employee or agent, and/or a \$1000 to \$2000 fine for the licensee or permittee and up to a \$100 fine for the officer, employee or agent.

(iv) More than three occurrences of the same type of moderate violation: a 15 day suspension to revocation of the license or permit and a 15 to 30 day suspension of the employment of the officer, employee or agent, and/or a \$2000 to \$25,000 fine for the licensee or permittee and up to a \$150 fine for the officer, employee or agent.

(v) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the sum of the monetary penalties for each of the charges in their respective categories.

(vi) If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(c) Serious Violations. Violations of this category directly or indirectly affect or potentially affect the public safety, health and welfare, or may involve minors. Penalty range: Written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department on the first occurrence. The penalty shall range from a five day suspension to revocation of the license or permit and/or up to a \$25,000 fine.

(i) First occurrence involving a serious violation: written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a five to 30 day suspension of the license or permit and a five to 30 day suspension of the employment of the officer, employee or agent, and/or a \$500 to \$3000 fine for the licensee or permittee and up to a \$100 fine for the officer, employee or agent.

(ii) Second occurrence of the same type of serious violation: a ten to 90 day suspension of the license or permit and a ten to 90 day suspension of the employment of the officer, employee or agent, and/or a \$1000 to \$9000 fine for the licensee or permittee and up to a \$150 fine for the officer, employee or agent.

(iii) More than two occurrences of the same type of serious violation: a 15 day suspension to revocation of the license or permit and a 15 to 120 day suspension of the employment of the officer, employee or agent, and/or a \$9000 to \$25,000 fine for the licensee or permittee and up to a \$500 fine for the officer, employee or agent.

(iv) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the sum of the monetary penalties for each of the charges in their respective categories.

(v) If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(d) Grave Violations. Violations of this category pose or potentially pose, a grave risk to public safety, health and welfare, or may involve lewd acts prohibited by title 32B, fraud, deceit, willful concealment or misrepresentation of the facts, exclusion of competitors' products, unlawful tied house trade practices, commercial bribery, interfering or refusing to cooperate with authorized officials in the discharge of their duties, unlawful importations, or industry supplying liquor to persons other than the department and military installations. Penalty range: Written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department on the first occurrence. The penalty shall range from a ten day suspension to revocation of the license or permit and/or up to a \$25,000 fine.

(i) First occurrence involving a grave violation: written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a ten day suspension to revocation of the license or permit and a 10 to 120 day suspension of the employment

of the officer, employee or agent, and/or a \$1000 to \$25,000 fine to the licensee or permittee and up to a \$300 fine for the officer, employee or agent.

(ii) More than one occurrence of the same type of grave violation: a fifteen day suspension to revocation of the license or permit, and a 15 to 180 day suspension of the employment of the officer, employee or agent and/or a \$3000 to \$25,000 fine for the licensee or permittee and up to a \$500 fine for the officer, employee or agent.

(iii) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the sum of the monetary penalties for each of the charges in their respective categories.

(iv) If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(e) The following table summarizes the penalty ranges contained in this section of the rule for licensees and permittees.

TABLE

Violation Degree and Frequency	Warning Verbal/Written	Fine \$ Amount	Suspension No. of Days	Revoke License
Minor				
1st	X X			
2nd		100 to 500		
3rd		200 to 500	1 to 5	
Over 3		500 to 25,000	6 to	X
Moderate				
1st	X	to 1,000		
2nd		500 to 1,000	3 to 10	
3rd		1,000 to 2,000	10 to 20	
Over 3		2,000 to 25,000	15 to	X
Serious				
1st		500 to 3,000	5 to 30	
2nd		1,000 to 9,000	10 to 90	
Over 2		9,000 to 25,000	15 to	X
Grave				
1st		1,000 to 25,000	10 to	X
Over 1		3,000 to 25,000	15 to	X

(f) The following table summarizes the penalty ranges contained in this section of the rule for officers, employees or agents of licensees and permittees.

TABLE

Violation Degree and Frequency	Warning Verbal/Written	Fine \$ Amount	Suspension No. of Days
Minor			
1st	X X		
2nd	X	to 25	
3rd		to 50	1 to 5
Over 3		to 75	6 to 10
Moderate			
1st	X	to 50	
2nd		to 75	3 to 10
3rd		to 100	10 to 20
Over 3		to 150	15 to 30

Serious		
1st	to 100	5 to 30
2nd	to 150	10 to 90
Over 2	to 500	15 to 120
Grave		
1st	to 300	10 to 120
Over 1	to 500	15 to 180

(5) Aggravating and Mitigating Circumstances. The commission and presiding officers may adjust penalties within penalty ranges based upon aggravating or mitigating circumstances.

(a) Examples of mitigating circumstances are:

(i) no prior violation history;

(ii) good faith effort to prevent a violation;

(iii) existence of written policies governing employee conduct;

(iv) extraordinary cooperation in the violation investigation that shows the licensee or permittee and the officer, employee or agent of the licensee or permittee accepts responsibility; and

(v) there was no evidence that the investigation was based on complaints received or on observed misconduct of others, but was based solely on the investigating authority creating the opportunity for a violation.

(b) Examples of aggravating circumstances are:

(i) prior warnings about compliance problems;

(ii) prior violation history;

(iii) lack of written policies governing employee conduct;

(iv) multiple violations during the course of the investigation;

(v) efforts to conceal a violation;

(vi) intentional nature of the violation;

(vii) the violation involved more than one patron or employee;

(viii) the violation involved a minor and, if so, the age of the minor; and

(ix) whether the violation resulted in injury or death.

(6) Violation Grid. Any proposed substantive change to the violation grid that would establish or adjust the degree of seriousness of a violation shall require rulemaking in compliance with title 63G-3, the Utah Administrative Rulemaking Act. A violation grid describing each violation of the alcoholic beverage control laws, the statutory and rule reference, and the degree of seriousness of each violation is available for public inspection in the department's administrative office. A copy will be provided upon request at reproduction cost. It is entitled "Alcoholic Beverage Control Commission Violation Grid" [~~May 2010 edition~~](January 2012 edition) and is incorporated by reference as part of this rule.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: [October 1, 2011]2012

Notice of Continuation: May 10, 2011

Authorizing, and Implemented or Interpreted Law: 32B-2-201(10); 32B-2-202; 32B-3-203(3)(c); 32B-1-305; 32B-1-306; 32B-1-307; 32B-1-607; 32B-1-304(1)(a); 32B-6-702; 32B-6-805(3); 32B-9-204(4); 32B-4-414(1)(b) and (c)

**Capitol Preservation Board (State),
Administration
R131-13
Health Reform - Health Insurance
Coverage in State Contracts -
Implementation**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35610

FILED: 01/03/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to comply with the new provisions of Section 63C-9-403 enacted by H.B. 128 of the 2011 General Session and state statutes.

SUMMARY OF THE RULE OR CHANGE: H.B. 128 of the 2011 General Session amended the benchmark requirements for health insurance coverage in state contracts. Other changes to the rule are to comply with state statutes. (DAR NOTE: A corresponding 120-day (emergency) rule filing for Rule R131-13 is under DAR No. 35611, effective 01/03/2012, in this issue, January 15, 2012, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63C-9-403

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: Enactment of this amendment simply complies with state statute and has no fiscal impact.
- ◆ LOCAL GOVERNMENTS: No cost or savings are anticipated for local governments with this amendment to the rule. No new requirements were created with this amendment that impact local governments.
- ◆ SMALL BUSINESSES: Enactment of this amendment simply complies with state statute and has no fiscal impact.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Enactment of this amendment simply complies with state statute and has no fiscal impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Enactment of this amendment simply complies with state statute and has no fiscal impact.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As stated, the statute itself created any fiscal impacts. The amendment to this rule does not add additional burdens than already provided by the statute. This rule by itself will not have a fiscal impact on businesses because it merely reiterates the statutory requirements.

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
- ◆ Chiarina Glead by phone at 801-538-3240, by FAX at 801-538-3313, or by Internet E-mail at cglead@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2012

AUTHORIZED BY: Allyson Gamble, Executive Director

**R131. Capitol Preservation Board (State), Administration.
R131-13. Health Reform -- Health Insurance Coverage in State
Contracts -- Implementation.**

R131-13-1. Purpose.

The purpose of this rule is to comply with the provisions of Section 63C-9-403.

R131-13-2. Authority.

This rule is authorized under Subsection 63C-9-301(3)(a) whereby the Capitol Preservation Board may make rules to govern, administer, and regulate the capitol hill complex, capitol hill facilities, and capitol hill grounds by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as well as Section 63C-9-403 that requires this rule related to health insurance provisions in certain design and construction contracts.

R131-13-3. Definitions.

(1) Except as otherwise stated in this rule, terms used in this rule are defined in Section 63C-9-403.

(2) In addition:

(a) "Board" means the Capitol Preservation Board established pursuant to Section 63C-9-201.

(b) "Executive Director" means the executive director of the Capitol Preservation Board including, unless otherwise stated, the executive director's duly authorized designee.

(c) "Employee(s)" ~~[is as defined in Subsection 63C-9-403(1)(a) and includes only those employees that live and work in the state of Utah along with their dependents. "Employee" for purposes of this rule, shall not be construed as to be broader than the use of the term employee for purposes of state of Utah Workers' Compensation laws along with their dependents.]~~ means an

"employee," "worker," or "operative" as defined in Section 34A-2-104 who:

- (i) works at least 30 hours per calendar week; and
- (ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following 90 days from the date of hire.
- (d) "State" means the state of Utah.

R131-13-4. Applicability of Rule.

(1) Except as provided in Subsection R131-13-4(2) below, R131-13 applies to all design or construction contracts entered into by the Board or the executive director, or on behalf of the Board, on or after July 1, 2009, and

- (a) applies to a prime contractor if the prime contract is in the amount of \$1,500,000 or greater; and
- (b) applies to a subcontractor if the subcontract, at any tier, is in the amount of \$750,000 or greater.

(2) Rule R131-13 does not apply if:

- (a) the application of this Rule R131-13 jeopardizes the receipt of federal funds;
 - (b) the contract is a sole source contract; or
 - (c) the contract is an emergency procurement.
- (3) This Rule R131-13 does not apply to a change order as defined in Section 63G-6-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection R131-13-4(1).

(4) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection R131-13-4(1) is guilty of an infraction.

R131-13-5. Contractor to Comply with Section 63C-9-403.

All contractors and subcontractors that are subject to the requirements of Section 63C-9-403 shall comply with all the requirements, penalties and liabilities of Section 63C-9-403.

R131-13-6. Not Basis for Protest or Suspend, Disrupt, or Terminate Design or Construction.

(1) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this Rule R131-13 or Section 63C-9-403:

- (a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6-801 or any other provision in Title 63G, Chapter 6, Part 8, Legal and Contractual Remedies; and
- (b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt or terminate the design or construction.

R131-13-7. Requirements and Procedures a Contractor Must Follow.

A contractor, including consultants and designers, must comply with the following requirements and procedures in order to demonstrate compliance with Section 63C-9-403.

(1) Demonstrating Compliance with Health Insurance Requirements. The following requirements must be met by a contractor, including consultants, designers and others under contract with the Board or the executive director that is subject to

the requirements of Rule R131-13 no later than the time the contract is entered into or renewed:

(a) demonstrate compliance by a written certification to the executive director that the contractor has and will maintain for the duration of the contract an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents; and

(b) the contractor shall also provide such written certification prior to the execution of the contract, in regard to all subcontractors, including subconsultants, at any tier that are subject to the requirements of Rule R131-13.

(2) Recertification. The executive director shall have the right to request a recertification by the contractor by submitting a written request to the contractor, and the contractor shall so comply with the written request within ten working days of receipt of the written request; however, in no case may the contractor be required to demonstrate such compliance more than twice in any 12-month period.

(3) Demonstrating Compliance with Actuarially Equivalent Determination. The actuarially equivalent determination required by Subsection[s] 63C-9-403(1)(c)[(i) and (iii)] and defined in Section 26-40-115 is met by the contractor if the contractor provides the executive director with a written statement of actuarial equivalency from either the Utah Insurance Department; an actuary selected by the contractor; or the contractor's insurer; or an underwriter who is responsible for developing the employer group's premium rates.

For purposes of this [Subsection]Rule R131-13-7(3), actuarially equivalency is achieved by meeting or exceeding [any of the following:

~~(a) As]the requirements of Section 26-40-115 which are also delineated on the DFCM website at <http://dfcm.utah.gov/downloads/Health%20Insurance%20Benchmark.pdf> [, a health benefit plan and employer contribution level with a combined actuarial value at least actuarially equivalent to the combined actuarial value of the benchmark plan determined by the Children's Health Insurance Program under Subsection 26-40-106(2)(a), and a contribution level of 50% of the premium for the employee and the dependents of the employee who reside or work in the State, in which:~~

~~(i) The employer pays at least 50% of the premium for the employee and the dependents of the employee who reside or work in the State; and~~

~~(ii) for purposes of calculating actuarial equivalency under this Subsection R131-13-7(3)(a):~~

~~(A) rather than the benchmark plan's deductible, and the benchmark plan's out-of-pocket maximum based on income levels, the deductible is \$750 per individual and \$2,250 per family; and the out-of-pocket maximum is \$3,000 per individual and \$9,000 per family;~~

~~(B) dental coverage is not required; and~~

~~(C) other than Subsection 26-40-106(2)(a), the provisions of Section 26-40-106 do not apply; or~~

~~(b)(i) is a federally qualified high deductible health plan that, at a minimum, has a deductible that is either;~~

~~(A) the lowest deductible permitted for a federally qualified high deductible health plan; or~~

~~_____ (B) a deductible that is higher than the lowest deductible permitted for a federally qualified high deductible health plan, but includes an employer contribution to a health savings account in a dollar amount at least equal to the dollar amount difference between the lowest deductible permitted for a federally qualified high deductible plan and the deductible for the employer offered federally qualified high deductible plan;~~

~~_____ (ii) an out of pocket maximum that does not exceed three times the amount of the annual deductible; and~~

~~_____ (iii) under which the employer pays 75% of the premium for the employee and the dependents of the employee who work or reside in the State.]~~

(4) The health insurance must be available upon the first day of the calendar month following [the initial] ninety days from the date of hire.

(5) Architect and Engineer Compliance Process. Architects and engineers that are subject to Rule R131-13 must demonstrate compliance with Rule R131-13 in any annual submittal. During the procurement process and no later than the execution of the contract with the architect or engineer, the architect or engineer shall confirm that their applicable subcontractors or subconsultants meet the requirements of Rule R131-13.

(6) General (Prime) Contractors Compliance Process. Contractors that are subject to Rule R131-13 must demonstrate compliance with Rule R131-13 for their own firm and any applicable subcontractors, in any pre-qualification process that may be used for the procurement. At the time of execution of the contract, the contractor shall confirm that their applicable subcontractors or subconsultants meet the requirements of Rule R131-13.

(7) Notwithstanding any prequalification process, any contract subject to Rule R131-13 shall contain a provision requiring compliance with Rule R131-13 from the time of execution and throughout the duration of the contract.

(8) Hearing and Penalties.

(a) Hearing. Any hearing for any penalty under Rule R131-13 conducted by the Board or executive director shall be conducted in the same manner as any hearing required for a suspension or debarment.

(b) Penalties that may be [H]imposed by the Board or Executive Director. The penalties that may be imposed by the Board or executive director if a contractor, consultant, subcontractor or subconsultant, at any tier, intentionally violates the provisions of Rule R131-13 may include:

(i) a three-month suspension of the contractor or subcontractor from entering into future contracts with the State upon the first violation, regardless of which tier the contractor or subcontractor is involved with the future design and/or construction contract;

(ii) a six-month suspension of the contractor or subcontractor from entering into future contracts with the State upon the second violation, regardless of which tier the contractor or subcontractor is involved with the future design and/or construction contract;

(iii) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6-804 upon the third or subsequent violation; and

(iv) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage

for an employee and dependents of an employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract.

(c)(i) In addition to the penalties imposed above, a contractor, consultant, subcontractor or subconsultant who intentionally violates the provisions of this Rule R131-13 shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection R131-13-7(8)(c)(i) as provided in Subsection 63C-9-403(7)(a)(ii).

R131-13-8. Not Create any Contractual Relationship with any Subcontractor or Subconsultant.

Nothing in Rule R131-13 shall be construed as to create any contractual relationship whatsoever between the State, the Board, or the executive director with any subcontractor or subconsultant at any tier.

KEY: health insurance, contractors, contracts

Date of Enactment or Last Substantive Amendment:
[September 22, 2010] February 21, 2012

Authorizing, and Implemented or Interpreted Law: 63C-9-403; 63C-9-301(3)(a)

**Career Service Review Office,
Administration
R137-1-21
The Evidentiary/Step 4 Adjudicatory
Procedures**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35559

FILED: 12/20/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: An agency review found an error in statutory reference and wording.

SUMMARY OF THE RULE OR CHANGE: The last sentence should read: "To be timely the written request for reconsideration shall be filed within 20 days after the evidentiary/step 4 decision is issued as provided at Section 63G-4-302."

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63G-4-302

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** None--Reconsiderations have always been allowed. Therefore, it should not have a new impact on the state budget.

- ◆ LOCAL GOVERNMENTS: None--Reconsiderations have always been allowed. Therefore, it should not have a new impact on local government.
- ◆ SMALL BUSINESSES: None--Reconsiderations have always been allowed. Therefore, it should not have a new impact on small businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No one should be affected differently because reconsiderations have always been allowed.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Reconsiderations have always been allowed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After review of Subsection R137-1-21(12)(b), it was found that this rule cited the wrong statutory reference which resulted in outlining the wrong time period for a reconsideration. Concerning fiscal impact the rule may have on business should be minimal if any, as a reconsideration has always been allowed.

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

CAREER SERVICE REVIEW OFFICE
ADMINISTRATION
ROOM 1120 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Annette Morgan by phone at 801-538-3048, by FAX at 801-538-3081, or by Internet E-mail at amorgan@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 02/22/2012

AUTHORIZED BY: Robert Thompson, Administrator

R137. Career Service Review Office, Administration.

R137-1. Grievance Procedure Rules.

R137-1-21. The Evidentiary/Step 4 Adjudicatory Procedures.

(1) Authority of the CSRO Hearing Officer/Presiding Officer. The CSRO hearing officer/presiding officer is authorized to:

- (a) serve as the presiding officer at evidentiary/step 4 hearings as set forth at Subsection 63G-4-103(1)(h)(i) of the UAPA;
- (b) maintain order, ensure the development of a clear and complete record, rule upon offers of proof, receive relevant evidence, and assign the burden of proof according to Subsection 67-19a-406(2);

(c) set reasonable limits on repetitive and cumulative testimony and sequester any witness whose later testimony might be colored by the testimony of another witness or any person whose presence might have a chilling effect on another testifying witness;

(d) rule on any motions, discovery requests, exhibit lists, witness lists and proposed findings;

(e) require the filing of memoranda of law and the presentation of oral argument with respect to any question of law;

(f) compel testimony and order the production of evidence and the appearance of witnesses;

(g) admit evidence that has reasonable and probative value; and

(h) reopen the evidentiary record.

(2) Conduct of Hearings. A hearing shall be confined to those issues related to the subject matter presented in the original grievance statement.

(a) An evidentiary proceeding may not be allowed to develop into a general inquiry into the policies and operations of an agency.

(b) An evidentiary proceeding is intended solely to receive evidence that either refutes or substantiates specific claims or charges. A proceeding may not be used as an occasion for irresponsible accusations, general attacks upon the character or conduct of the employing agency, agency management, or other employees. A hearing may not be used as a forum for making derogatory assertions having no bearing on the claims or specific matters under review.

(3) Evidentiary/Step 4 Hearing. An evidentiary/step 4 hearing shall be a hearing on the record according to Subsections 67-19a-406(1) and (2), held de novo, with both parties being granted full administrative process as follows:

(a) The CSRO hearing officer shall first make factual findings based solely on the evidence presented at the hearing without deference to any prior factual findings of the agency. The CSRO hearing officer shall then determine whether:

(i) the factual findings made from the evidentiary/step 4 hearing support with substantial evidence the allegations made by the agency or the appointing authority, and

(ii) the agency has correctly applied relevant policies, rules, and statutes.

(b) When the CSRO hearing officer determines in accordance with the procedures set forth above that the evidentiary/step 4 factual findings support the allegations of the agency or the appointing authority, then the CSRO hearing officer must determine whether the agency's decision, including any disciplinary sanctions imposed, is excessive, disproportionate or otherwise constitutes an abuse of discretion. In making this latter determination, the CSRO hearing officer shall give deference to the decision of the agency or the appointing authority. If the CSRO hearing officer determines that the agency's penalty is excessive, disproportionate or constitutes an abuse of discretion, the CSRO hearing officer shall determine the appropriate remedy.

(4) Discretion. Upon commencement, the CSRO hearing officer shall announce that the hearing is convened and is being held on the record. The CSRO hearing officer shall note appearances for the record and note the party having the burden of moving forward first.

(5) Closing the Record. After all testimony, documentary evidence, and arguments have been presented, the CSRO hearing officer shall close the record and terminate the proceeding, unless one or both parties agree to submit a posthearing brief or memoranda of law within a specified time.

(6) Posthearing Briefs. When posthearing briefs or memoranda of law are scheduled to be submitted, the record shall remain open until the briefs or memoranda are exchanged and received by the CSRO hearing officer and incorporated into the record, or until the time to receive these submissions has expired. After receipt of posthearing documents, or upon the expiration of the time to receive posthearing documents, the case is then taken under advisement, and the period commences for the issuance of the written decision.

(7) Findings of Fact, Conclusions of Law. Notwithstanding R137-1-21(1)(h) above, following the closing of the record, the CSRO hearing officer shall write a decision containing findings of fact and conclusions of law according to Section 67-19a-406 and Section 63G-4-208 of the UAPA, which is incorporated by reference. When the CSRO hearing officer's decision and order is filed with the administrator it then becomes the decision and order of the evidentiary/step 4 hearing.

(8) Distribution of Decisions. The administrator shall distribute copies of the evidentiary/step 4 decision and order to the persons, parties and representatives of record.

(9) Past Work Record. In those proceedings where a disciplinary penalty is at issue, the past employment record of the employee is relevant for purposes of either mitigating or sustaining the penalty when substantial evidence supports an agency's allegations.

(10) Compliance and Enforcement. State agencies, department heads, division directors and officials are expected to comply with decisions and orders issued by the CSRO hearing officer. Enforcement measures available to the CSRO include:

(a) petitioning the governor, who may remove his appointed state officers with or without cause, and with respect to those who can only be removed for cause, refusal to obey a lawful order may constitute sufficient cause for removal;

(b) a mandamus order to compel the official to obey the order;

(c) the charge of a Class A misdemeanor according to Section 67-19-29; and

(d) seeking enforcement of a legal decision, order or ruling through civil enforcement in the district court according to Subsection 63G-4-501(1) of the UAPA which is incorporated by reference.

(11) Rehearings. Rehearings are not permitted.

(12) Reconsideration.

(a) Section 63G-4-302 of the UAPA is incorporated by reference within this rule, and requests for reconsideration of an evidentiary/step 4 decision will be conducted in accordance with that section, except for the time period which is stated below.

(b) The written reconsideration request must contain specific reasons why a reconsideration is warranted with respect to the factual findings and legal conclusions of the evidentiary/step 4 decision. The same CSRO hearing officer shall decide the propriety of a reconsideration. A request for reconsideration is filed with the

administrator. To be timely the written request for reconsideration shall be filed within ~~[ten working days upon receipt of the]~~twenty days after the evidentiary/step 4 decision ~~[according to the time period at Subsection 67-19a-407(1)(a)(i), not]~~is issued as provided at Section 63G-4-302.

(13) Appeal to the Utah Court of Appeals. To appeal to the Utah Court of Appeals, a party must file with the court within 30 calendar days from the date of issuance of the evidentiary/step 4 decision and final agency action according to Sections 63G-4-401 and 63G-4-403 of the UAPA, which are incorporated by reference. The dates of mailing, postmarking and receipt are not applicable to filing with the court.

(14) Transcript Fee. The party petitioning the Utah Court of Appeals for a review must bear all costs of transcript production for the evidentiary/step 4 decision. The CSRO may not share any cost for a transcript or transcription of the evidentiary/step 4 hearing.

KEY: grievance procedures, reconsiderations

Date of Enactment or Last Substantive Amendment:
~~[December 9, 2011]~~2012

Notice of Continuation: July 18, 2011

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

**Commerce, Occupational and
Professional Licensing
R156-83-502
Unprofessional Conduct**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 35585

FILED: 12/29/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Online Prescribing, Dispensing and Facilitation Licensing Board reviewed the rule and are now recommending these proposed amendments to further clarify and add five additional unprofessional conduct violations.

SUMMARY OF THE RULE OR CHANGE: In Section R156-83-502, five additional unprofessional conduct violations applicable to licensees under Title 58, Chapter 83, are being added.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-83-101 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.
- ◆ **LOCAL GOVERNMENTS:** The proposed amendments only apply to licensed online prescribers, online contract pharmacies and Internet facilitators, and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.
- ◆ **SMALL BUSINESSES:** The proposed amendments only apply to licensed online prescribers, online contract pharmacies and Internet facilitators, and applicants for licensure in those classifications. 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 online prescribers, online contract pharmacies and Internet facilitators, and applicants for licensure in those classifications. The proposed amendments will not result in any direct, measurable costs and/or benefits for affected persons but may require licensees to be more aware of the licensing law and rules so as not to violate them and potentially be subject to disciplinary action against a license.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed online prescribers, online contract pharmacies and Internet facilitators, and applicants for licensure in those classifications. The proposed amendments will not result in any direct, measurable costs and/or benefits for affected persons but may require licensees to be more aware of the licensing law and rules so as not to violate them and potentially be subject to disciplinary action against a licensee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing establishes standards for the practice of online prescribing and defines conduct that constitutes unprofessional conduct. It requires licensees to meet certain reporting and monitoring requirements, but no fiscal impact to businesses is anticipated from the amendments.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Noel Taxin by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at ntaxin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

- ◆ 02/14/2012 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2012

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing. R156-83. Online Prescribing, Dispensing, and Facilitation Licensing Act Rule.

R156-83-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

- (1) failing as an online facilitator to timely submit quarterly reports to the Division as established in Section R156-83-308;
- (2) prescribing any medication to a patient while engaged in practice as an online prescriber without first reviewing a comprehensive health history, making an assessment, or establishing a diagnosis; ~~and~~
- (3) prescribing a drug listed in Section R156-83-306 for diagnosis that is not recognized by the Federal Food and Drug Administration to be treated by that prescribed drug;
- ~~(4) failing as a licensee to monitor, audit, control or report to the Division any website:~~
 - ~~(a) promoting availability of online prescribing and dispensing of any prescriptions; and~~
 - ~~(b) marketed in a format suggesting use of the Utah license as a means to induce consumer confidence of a Division approved website;~~
- ~~(5) failing to provide to the Division all website and URL information when conducting business as an online prescriber, pharmacy and internet facilitator;~~
- ~~(6) failing to inform the Division of the name of all physicians writing prescriptions to be filled by the online contract pharmacy;~~
- ~~(7) failing to report to the Division all transactions of prescriptions filled by the online contract pharmacy; and~~
- ~~(8) failing to comply with all audit requirements.~~

KEY: licensing, online prescribing, internet facilitators
Date of Enactment or Last Substantive Amendment: [~~May 26, 2011~~2012
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a), 58-83-101

Commerce, Securities
R164-101
Securities Fraud Reporting Program
Act

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 35558

FILED: 12/20/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Pursuant to S.B. 100, passed in the 2011 General Session, the rule sets forth the procedures for filing an application for an award under the Securities Fraud Reporting Program Act and the procedures for the making or denial of such award.

SUMMARY OF THE RULE OR CHANGE: The rule sets forth the procedures for filing an application for an award under the Securities Fraud Reporting Program Act and the procedures for the making or denial of such award.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-1-103 and Section 61-1-107 and Section 61-1-24

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: No additional costs or savings to the state budget are anticipated, as the rule simply describes the procedures through which a person may apply for an award under the Securities Fraud Reporting Program Act.

◆ LOCAL GOVERNMENTS: No additional costs or savings to local government are anticipated, as local government is not involved with the Securities Fraud Reporting Program Act and the rule simply describes the procedures through which a person may apply for an award under the Act.

◆ SMALL BUSINESSES: No additional costs or savings to small businesses are anticipated, as the rule simply describes the procedures through which a person may apply for an award under the Securities Fraud Reporting Program Act. Small businesses are eligible to provide information and apply for an award under the Act.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No additional costs or savings are anticipated as the rule simply describes the procedures through which a person may apply for an award under the Securities Fraud Reporting Program Act. Such persons are eligible to provide information and apply for an award under the Act.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because the Securities Fraud Reporting Program Act is a voluntary program through which persons providing information to the Utah Securities Division about a securities fraud may apply for and receive an award based upon monetary sanctions actually collected by the Division.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule establishes procedures required by recent statutory amendments regarding awards for reporting securities fraud. No fiscal impact to businesses is anticipated

beyond those considered by the Legislature in passing the statutory amendments.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Charles Lyons by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at clyons@utah.gov
◆ Keith Woodwell by phone at 801-530-6606, by FAX at 801-530-6980, or by Internet E-mail at kwoodwell@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2012

AUTHORIZED BY: Keith Woodwell, Director

R164. Commerce, Securities.**R164-101. Securities Fraud Reporting Program Act.****R164-101-1. Application and Award Procedures.**(A) Authority and Purpose

(1) The Division enacts this rule under authority granted by Sections 61-1-24, -103 and -107.

(2) This rule describes the procedures for filing an application for an award under the Securities Fraud Reporting Program Act and procedures for the making or denial of such award.

(B) Definitions

(1) "Act" means the Utah Uniform Securities Act, Utah Code Ann. Section 61-1-1 et seq.

(2) "Application" means the form designated by the Division through which an individual ("reporter") may report violations of the Act in accordance with Section 61-1-103.

(3) "Award" means a payment authorized by the Utah Securities Commission ("Commission") as described in Section 61-1-106.

(4) "Reporter" means an individual who provides original information relating to a violation in accordance with Section 61-1-103.

(C) Application Requirements

(1) To be considered for an award, a reporter shall submit to the Division an application containing the information set forth in Section 61-1-103 and any other information required by the Division.

(D) Award Procedures

(1) At the conclusion of an action that meets the criteria of Subsection 61-1-106(1) and Section 61-1-107, and in consideration of the criteria set forth in Subsection 61-1-106(3), the Commission may make an award to one or more reporters.

(2) Prior to making an award, the Commission shall confirm the reporter meets the requirements of Section 61-1-103. In determining whether the reporter meets such requirements, the Commission may request any relevant information from the Division or from the reporter.

(3) Upon making an award, the Commission shall enter an order that payment be made from the Securities Investor Education, Training, and Enforcement Fund. The Division shall make payment to the reporter in compliance with Section 61-1-18.7.

(4) If the Commission denies an award, the Commission shall enter an order denying the award. A person aggrieved by such order may appeal the denial as set forth in Subsection 61-1-107(4)(b).

(5) A majority of the Commission shall constitute a quorum for making or denying an award.

(6) The Commission shall make or deny an award within one hundred and twenty (120) days following the payment of a monetary sanction in excess of \$50,000 in an action described in Subsection (D)(1).

KEY: securities, securities regulation, securities fraud reporting program

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

Authorizing, and Implemented or Interpreted Law: 61-1-18.7; 61-1-24; 61-1-101; 61-1-103; 61-1-106; 61-1-107

**Health, Administration
R380-60
Local Health Department Emergency
Protocols**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 35571

FILED: 12/23/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 336 (2011 General Session) Medical Professional Licensing during a Declared Emergency, sponsored by Rep. Evan Vickers, enacted by Chapter 110, Laws of Utah 2011, effective 05/10/2011, modified the Division of Occupational and Professional Licensing Act and the Pharmacy Practice Act and authorized the Department of Health to establish protocols for the distribution of medicine in a national, state, or local emergency. This rule was developed in collaboration with key partners and proposes those protocols.

SUMMARY OF THE RULE OR CHANGE: Section R380-60-1 makes it clear the rule only applies in a declared emergency. Section R380-60-2 sets definitions for key terms used in the rule. Section R380-60-3 sets the parameters for distribution of the medications. Section R380-60-4 sets the

parameters for dispensing the medications to persons. Section R380-60-5 sets the parameters where the circumstances require administration of the medication to a person, such as a vaccine. Section R380-60-6 sets record keeping requirements.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 58-1-307(6), (7), (8), (9)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: Responding to protect the health of the public is a core mission of the State Health Department. This rule and the legislation that authorized the rule were supported by state and local health departments. In the event of a major emergency, the costs could be significant to implement this rule, but necessary and unavoidable. The advance planning allowed by this rule and other similar measures will minimize costs to the extent possible.

◆ LOCAL GOVERNMENTS: Responding to protect the health of the public is a core mission of the Local Health Departments. This rule and the legislation that authorized the rule were supported by state and local health departments. In the event of a major emergency, the costs could be significant to implement this rule, but necessary and unavoidable. The advance planning allowed by this rule and other similar measures will minimize costs to the extent possible.

◆ SMALL BUSINESSES: Small health care providers and pharmacies will be benefited by this rule in the event of an emergency by having access to medications and health care expertise from public health professionals. No costs for small business are predicted.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Health care providers and pharmacies will be benefited by this rule in the event of an emergency by having access to medications and health care expertise from public health professionals. No costs for business are predicted.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance cost for business is predicted as state and local health departments will bear the burden of implementation. Record keeping should be within normal business practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Any significant public health emergency that would trigger the authority of this rule will have significant health and potentially financial costs. This rule and other preparations made by public health will mitigate those costs, but cannot avoid them entirely. This important rule should benefit business and citizens to recover from any such event.

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

HEALTH
ADMINISTRATION
CANNON HEALTH BLDG
288 N 1460 W

SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Robert Rolfs by phone at 801-538-6111, by FAX at 801-538-6306, or by Internet E-mail at rrolfs@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2012

AUTHORIZED BY: David Patton, PhD, Executive Director

R380. Health, Administration.

R380-60. Local Health Department Emergency Protocols.

R380-60-1. Authority and Purpose.

(1) These emergency protocols are adopted by the Department under authority of Sections 58-1-307(6), (7), (8), and (9).

(2) These protocols shall only be in effect during a declared emergency as defined herein.

R380-60-2 Definitions.

(1) Administer - means the direct application of a drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human by another person.

(2) Declaration of Emergency - means the declaration of a national, state (Section 63K-4-201), local (Section 63K-4-301) or public health emergency (Section 26-23b-102 and R389-702-10).

(3) Department - means the Utah Department of Health.

(4) Dispense - means the interpretation, evaluation, and implementation of a prescription drug order or device or nonprescription drug or device under a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration or use.

(5) Distribute - means to deliver a drug or device other than by administering or dispensing.

(6) Emergency Use Authorization (EUA) - means the authority of the US Food and Drug Administration (FDA) to approve the emergency use of drugs, devices, and medical products (including diagnostics) that were not previously approved, cleared, or licensed by FDA (hereafter, "unapproved") or the off-label use of approved products in certain well-defined emergency situations.

(7) Local Health Department - means a county or multicounty local health department established under Utah Code Title 26A.

(8) Strategic National Stockpile (SNS) - means a national repository of antibiotics, chemical antidotes, antitoxins, life-support medications, IV administration, airway maintenance supplies, and medical/surgical items.

(9) Triage - for purposes of this rule means the sorting of and allocation of treatment to patients according to priorities designed to maximize the number of survivors and optimize the use of available resources.

R380-60-3 Distribution of Medication.

(1) Upon the declaration of an emergency, the Department shall coordinate the distribution of vaccine, antiviral, antibiotic or other prescription medication that is not a controlled substance received from the Strategic National Stockpile or another emergency stockpile and delivered to local health departments for further distribution, dispensing and administration.

(2) The local health department may distribute the medication received from the Department to emergency personnel and other facilities as designated herein and within the local health department's jurisdiction.

(3) If necessary to prevent or treat the disease or condition that gave rise to, or is a consequence of the emergency, the Department or local health departments may further distribute a vaccine, antiviral, antibiotic, or other medication that is not a controlled substance received from the Strategic National Stockpile or another emergency stockpile for dispensing or direct administration by a:

(a) pharmacy (including back filling of inventory);

(b) prescribing practitioner;

(c) licensed health care facility;

(d) federally qualified community health clinic; or

(e) governmental entity for use by a community more than 50 miles from any facility listed in (a) to (d).

(4) The facility receiving medication from the Department or local health departments shall be responsible for record keeping as provided for in Section R380-60-6 and for the tracking, storage and the proper return, disposal or destruction of any unused medication.

(5) A facility receiving medication as provided in Subsection R380-60-3(3) must follow applicable state or Federal law governing dispensing and administration of the medications.

R380-60-4 Dispensing of Medication.

(1) After receiving medication distributed by the Department, the medical director or other person with authority to prescribe working in a local health department, may supervise or direct the dispensing of a vaccine, antiviral, antibiotic or other prescription medication that is not a controlled substance, under:

(a) a prescription or other lawful order by a person with authority to prescribe,

(b) the prescription procedure described in Section 58-17b-620(4),

(c) other procedures described in a written protocol approved by the medical director of the Department, or

(d) other conditions justifying the dispensing of the medication without a prescription, including the terms of an Emergency Use Authorization to:

(i) the contacts of a patient (contact of a patient with a physician patient relationship);

(ii) an individual working in a triage situation;

(iii) an individual receiving preventative or medical treatment in a triage situation;

(iv) an individual who does not have coverage for the prescription in the individual's health insurance plan;

(v) an individual involved in the delivery of medical or other emergency services; or

(vi) an individual who otherwise may have a direct impact on public health.

(2) If the person dispensing the vaccine, antiviral, antibiotic or other prescription medication is not a licensed pharmacist authorized to dispense medications under Title 58 Chapter 17b, the dispensing shall be conducted according to a written protocol approved by the medical director of the Department or the local health department.

R380-60-5 Administration of Medication.

(1) After receiving medication distributed by the Department, the medical director or other person licensed to administer (scope of practice) working in a local health department, may supervise or direct the administration of a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance under:

(a) a prescription or other lawful order by a person with authority to prescribe,

(b) the prescription procedure described in Section 58-17b-620(4),

(c) other procedures described in a written protocol approved by the medical director of the Department, or

(d) conditions for administration consistent with the terms of an Emergency Use Authorization to:

(i) the contacts of a patient;

(ii) an individual working in a triage situation;

(iii) an individual receiving preventative or medical treatment in a triage situation;

(iv) an individual who does not have prescription coverage;

(v) an individual involved in the delivery of medical or other emergency services; or

(vi) an individual who otherwise may have a direct impact on public health.

(2) If the person administering the vaccine, antiviral, antibiotic, or other prescription medication is not licensed to administer, the administration shall follow procedures described in a written protocol approved by the medical director of the Department or the local health department.

R380-60-6 Record Keeping.

(1) Records regarding the inventory (lot number, expiration date, etc.), distribution, dispensing and administration (patient data collection) of a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance shall be consistent with the terms of any Emergency Use Authorization or specific Strategic National Stockpile instructions.

(2) The Department, local health department or facility described in Section R380-60-3 that dispenses or administers a vaccine, antiviral, antibiotic or other prescription medication under the authorization of this Rule shall comply with the conditions of any Emergency Use Authorization and shall keep an inventory record describing the drug and the name and contact information for each individual that received the drug.

(3) If the circumstances of the emergency make it impossible to keep these inventory records, the Executive Director of the Department may grant an exception to this requirement limiting the record keeping requirement to such records as are appropriate and possible in the circumstances of the emergency.

KEY: public health emergency

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

Authorizing, and Implemented or Interpreted Law: 58-1-307(6); 58-1-307(7); 58-1-307(8); 58-1-307(9)

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-1-5
Incorporations by Reference**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35584

FILED: 12/27/2011

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 (CMS). The purpose of this change, therefore, is to incorporate the most current Medicaid State Plan by reference and to implement by rule both the definitions and the attachment for the Private Duty Nursing Acuity Grid found in the Home Health Agencies Provider Manual, and to implement by rule ongoing Medicaid policy for services described in the Utah Medicaid Provider Manual, Medical Supplies Manual and List; Hospital Services Provider Manual; Speech-Language Services Provider Manual; Audiology Services Provider Manual; Hospice Care Provider Manual; Long Term Care Services in Nursing Facilities Provider Manual; Personal Care Provider Manual; Utah Home and Community-Based Waiver Services for Individuals 65 or Older Provider Manual; Utah Home and Community-Based Waiver Services for Individuals with Acquired Brain Injury Age 18 and Older Provider Manual; Utah Home and Community-Based Waiver Services for Individuals with Intellectual Disabilities or Other Related Conditions Provider Manual; Utah Home and Community-Based Waiver Services for Individuals with Physical Disabilities Provider Manual; Utah Home and Community-Based Waiver Services New Choices Waiver Provider Manual; and Utah Home and Community-Based Waiver Services for Technology Dependent, Medically Fragile Individuals (HCBWS) Provider Manual.

SUMMARY OF THE RULE OR CHANGE: Section R414-1-5 is changed to update the incorporation of the State Plan by reference to 01/01/2012. It also incorporates by reference State Plan Amendments (SPAs) that become effective no later than 01/01/2012. Four SPAs became effective since the last incorporation of the State Plan. These include SPA 11-001-UT Peer Support Services, which assists in the rehabilitation

and recovery of individuals with serious and persistent mental illness or serious emotional disturbance; SPA 11-003-UT Exclusion of State Income Tax Returns from Countable Resources, which implements a resource exclusion under the Medicaid program to exclude a state tax refund for 12 months after receipt when an individual receives the refund between 04/01/2011, and 12/31/2012; SPA 11-004-UT Medicaid Prohibition on Payments to Institutions or Entities Located Outside of the United States, which implements Section 6505 of the Affordable Care Act to prohibit payments to entities located outside of the United States that provide items or services under the State Plan or a waiver; and SPA 11-007-UT, which updates the direct graduate medical education payment pool and modifies the supplemental state teaching hospital payments calculation. This amendment also incorporates by reference the Medical Supplies Manual and List and the hospital services provider manual, effective 01/01/2012; incorporates by reference both the definitions and the attachment for the Private Duty Nursing Acuity Grid found in the Home Health Agencies Provider Manual, effective 01/01/2012; incorporates by reference the Speech-Language Services Provider Manual, effective 01/01/2012; incorporates by reference the Audiology Services Provider Manual, effective 01/01/2012; incorporates by reference the Hospice Care Provider Manual, effective 01/01/2012; incorporates by reference the Long Term Care Services in Nursing Facilities Provider Manual, with its attachments, effective 01/01/2012; incorporates by reference the Utah Home and Community-Based Waiver Services for Individuals 65 or Older Provider Manual, effective 01/01/2012; incorporates by reference the Personal Care Provider Manual, with its attachments, effective 01/01/2012; incorporates by reference the Utah Home and Community-Based Waiver Services for Individuals with Acquired Brain Injury Age 18 and Older Provider Manual, effective 01/01/2012; incorporates by reference the Utah Home and Community-Based Waiver Services for Individuals with Intellectual Disabilities or Other Related Conditions Provider Manual, effective 01/01/2012; incorporates by reference the Utah Home and Community-Based Waiver Services for Individuals with Physical Disabilities Provider Manual, effective 01/01/2012; incorporates by reference the Utah Home and Community-Based Waiver Services New Choices Waiver Provider Manual, effective 01/01/2012; and incorporates by reference the Utah Home and Community-Based Waiver Services for Technology Dependent, Medically Fragile Individuals (HCBWS) Provider Manual, effective 01/01/2012.

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

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates Utah Home and Community-Based Waiver Services for Technology Dependent, Medically Fragile Individuals (HCBWS) Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2012

- ◆ Updates Utah Home and Community-Based Waiver Services for Individuals 65 or Older Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2012
- ◆ Updates Hospital Services Provider Manual, with its attachments, published by Division of Medicaid and Health Financing, 01/01/2012
- ◆ Updates Definitions and the Attachment for the Private Duty Nursing Acuity Grid in the Home Health Agencies Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2012
- ◆ Updates Speech-Language Services Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2012
- ◆ Updates Audiology Services Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2012
- ◆ Updates Hospice Care Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2012
- ◆ Updates Utah Home and Community-Based Waiver Services New Choices Waiver Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2012
- ◆ Updates Utah Medicaid Provider Manual, Medical Supplies Manual and List, published by Division of Medicaid and Health Financing, 01/01/2012
- ◆ Updates Utah Medicaid State Plan, published by Division of Medicaid and Health Financing, 01/01/2012
- ◆ Updates Utah Home and Community-Based Waiver Services for Individuals with Acquired Brain Injury Age 18 and Older Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2012
- ◆ Updates Utah Home and Community-Based Waiver Services for Individuals with Intellectual Disabilities or Other Related Conditions Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2012
- ◆ Utah Home and Community-Based Waiver Services for Individuals with Physical Disabilities Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2012
- ◆ Updates Personal Care Provider Manual, with its attachments, published by Division of Medicaid and Health Financing, 01/01/2012
- ◆ Updates Long Term Care Services in Nursing Facilities Provider Manual, with its attachments, published by Division of Medicaid and Health Financing, 01/01/2012

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

provider manuals 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 provider manuals 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 provider manuals 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 provider manuals 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 provider manuals does not create costs or savings to a single Medicaid recipient 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 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2012

AUTHORIZED BY: David Patton, PhD, 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 [~~October~~January 1, 201[+]²]. It also incorporates by reference State Plan Amendments that become effective no later than [~~October~~January 1, 201[+]²].

(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, effective [~~October~~January 1, 201[+]²], as applied in Rule R414-70.

(3) The Department incorporates by reference the Hospital Services Provider Manual, with its attachments, effective [~~October~~January 1, 201[+]²].

(4) The Department incorporates by reference both the definitions and the attachment for the Private Duty Nursing Acuity Grid found in the Home Health Agencies Provider Manual, effective [~~October~~January 1, 201[+]²].

(5) The Department incorporates by reference the Speech-Language Services Provider Manual, effective [~~October~~January 1, 201[+]²].

(6) The Department incorporates by reference the Audiology Services Provider Manual, effective [~~October~~January 1, 201[+]²].

(7) The Department incorporates by reference the Hospice Care Provider Manual, effective [~~October~~January 1, 201[+]²].

(8) The Department incorporates by reference the Long Term Care Services in Nursing Facilities Provider Manual, with its attachments, effective [~~October~~January 1, 201[+]²].

(9) The Department incorporates by reference the Personal Care Provider Manual, with its attachments, effective [~~October~~January 1, 201[+]²].

(10) The Department incorporates by reference the Utah Home and Community-Based Waiver Services for Individuals 65 or Older Provider Manual, effective [~~October~~January 1, 201[+]²].

(11) The Department incorporates by reference the Utah Home and Community-Based Waiver Services for Individuals with Acquired Brain Injury Age 18 and Older Provider Manual, effective [~~October~~January 1, 201[+]²].

(12) The Department incorporates by reference the Utah Home and Community-Based Waiver for Individuals with Intellectual Disabilities or Other Related Conditions~~Services for Individuals with Developmental Disabilities and Mental Retardation~~ Provider Manual, effective [~~October~~January 1, 201[+]²].

(13) The Department incorporates by reference the Utah Home and Community-Based Waiver Services for Individuals with Physical Disabilities Provider Manual, effective [~~October~~January 1, 201[+]²].

(14) The Department incorporates by reference the Utah Home and Community-Based Waiver Services New Choices Waiver Provider Manual, effective [~~October~~January 1, 2011⁺].

(15) The Department incorporates by reference the Utah Home and Community-Based Waiver Services for Technology Dependent, Medically Fragile Individuals (HCBWS) Provider Manual, effective [~~October~~January 1, 2011⁺].

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: [~~November 15, 2011~~2012

Notice of Continuation: April 16, 2007

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3; 26-34-2

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-401-5

Penalties and Interest

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35583

FILED: 12/27/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to implement penalties on nursing facilities that do not pay their Nursing Care Facility Assessment mandated by Utah Code Title 26, Chapter 35a, on a timely basis.

SUMMARY OF THE RULE OR CHANGE: This amendment outlines the penalties for delinquent deficiency assessments that include a suspension of all Medicaid payments, a negligence penalty, an intentional disregard penalty, and an intent to evade penalty.

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

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The Department anticipates a possible savings to the state budget as a result of this amendment. Nevertheless, there is not enough data to estimate how many nursing facilities will default on their assessment payments or what kinds of penalties they will incur.

♦ **LOCAL GOVERNMENTS:** The Department anticipates a possible loss in revenue to local hospitals that default on their assessment payments. Nevertheless, there is not enough data to estimate how many of these hospitals will default or what kinds of penalties they will incur.

♦ **SMALL BUSINESSES:** The Department anticipates a possible loss in revenue to nursing facilities that default on

their assessment payments. Nevertheless, there is not enough data to estimate how many nursing facilities will default or what kinds of penalties they will incur.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Department anticipates a possible loss in revenue to nursing facilities that default on their assessment payments. Nevertheless, there is not enough data to estimate how many nursing facilities will default or what kinds of penalties they will incur. Medicaid recipients will continue to receive nursing facility services and will not incur out-of-pocket expenses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Department anticipates a possible loss in revenue to a single nursing facility or to a local hospital that defaults on its assessment payment. Nevertheless, there is not enough data to estimate the kinds of penalties that these facilities will incur. A Medicaid recipient will continue to receive nursing facility services and will not incur out-of-pocket expenses.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule amendment implements the penalties provided for by the Legislature and assures that all facilities are treated fairly and equally in the event that payment of the assessment is not made on a timely basis.

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 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2012

AUTHORIZED BY: David Patton, PhD, Executive Director

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

R414-401. Nursing Care Facility Assessment.

R414-401-5. Penalties and Interest.

(1) The penalties for failure to file a report, to pay the assessment due within the time prescribed, to pay within 30 days of a notice of deficiency of the assessment[~~for underpayment of the assessment, for intent to evade the assessment~~] are[~~as~~] provided in

~~[Utah Code]~~Section 26-35a-105. The Department shall suspend all Medicaid payments to a nursing facility until the facility pays the assessment due in full or until the facility and the Department reach a negotiated settlement.

(2) The Department shall charge a nursing facility a negligence penalty as prescribed in Subsection 26-35a-105(3)(a) if the facility does not pay in full (or file its report) within 45 days of a notice of deficiency of the assessment.

(3) The Department shall charge a nursing facility an intentional disregard penalty as prescribed in Subsection 26-35-105(3)(b) if the facility does not pay in full (or file its report) within 45 days of a notice of deficiency of the assessment two times within a 12-month period, or if the facility does not pay in full (or file its report) within 60 days of a notice of deficiency of the assessment.

(4) The Department shall charge a nursing facility an intent to evade penalty as prescribed in Subsection 26-35a-105(4) if the facility does not pay in full (or file its report) within 45 days of a notice of deficiency of the assessment three times with a 12-month period, or if the facility does not pay in full (or file its report) within 75 days of a notice of deficiency of the assessment.

KEY: Medicaid, nursing facility

Date of Enactment or Last Substantive Amendment: ~~[July 1, 2011]~~**2012**

Notice of Continuation: June 25, 2009

Authorizing, and Implemented or Interpreted Law: 26-1-30; 26-35a; 26-18-3

**Health, Family Health and
Preparedness, Child Care Licensing
R430-1
General Licensing, Certificate, and
Enforcement Provisions, Child Care
Facilities**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 35581

FILED: 12/23/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As part of the Department's rule review requested by the Governor's Office, two obsolete rules (Rules R430-2 and R430-3) are being repealed and replaced with this new Rule R430-1. (DAR NOTE: The proposed repeal of Rule R430-2 is under DAR No. 35579 and the proposed repeal of Rule R430-3 is under DAR No. 35580 in this issue, January 15, 2012, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This proposed new rule specifies the processes for child care license and certificate application, issuance, changes, compliance assurance, and sanctions.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** Some state agencies operate or sponsor child care programs. Because this rule does not substantially change the current licensing processes or fees, the Department does not anticipate that this rule will result in any new costs or savings to child care programs operated by state agencies.

♦ **LOCAL GOVERNMENTS:** Some local governments operate or sponsor child care programs. Because this rule does not substantially change the current licensing processes or fees, the Department does not anticipate that this rule will result in any new costs or savings to child care programs operated by local governments.

♦ **SMALL BUSINESSES:** Almost all child care facilities are small businesses. Because this rule does not substantially change the current licensing processes or fees, the Department does not anticipate that this rule will result in any new costs or savings to child care programs operated by small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because this rule does not alter requirements for child care providers, but rather moves the content of two other rules into this rule, the Department does not anticipate any new costs or savings to child care programs operated by local governments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this rule does not change the current licensing processes or fees being moved to this rule from another rule, the Department does not anticipate that this rule will result in any new compliance costs to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As requested by Governor Herbert, this rule was carefully reviewed with impacted business and other parties. The proposed rule replaces two rules with streamlined and simplified language. No new costs to business are expected by this new rule.

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

HEALTH
FAMILY HEALTH AND PREPAREDNESS,
CHILD CARE LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Teresa Whiting by phone at 801-538-6320, by FAX at 801-538-6325, or by Internet E-mail at twhiting@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 03/01/2012

AUTHORIZED BY: David Patton, PhD, Executive Director

R430. Health, Health Systems Improvement, Child Care Licensing.

R430-1. General Licensing, Certificate, and Enforcement Provisions, Child Care Facilities.

R430-1-1. Authority and Purpose.

This rule is adopted pursuant to Title 26, Chapter 39. It defines the general procedures and requirements that a person must follow to obtain and maintain a license or certificate to provide child care.

R430-1-2. Definitions.

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

R430-1-3. Initial Application and License or Certificate Issuance or Denial.

(1) An applicant for a license or certificate shall submit to the Department a complete application, which shall include all required documentation listed on the application, on a form furnished by the Department.

(2) Each applicant shall comply with all regulations, ordinances, and codes of the city and county in which the facility is located. The applicant shall obtain and submit to the Department the following clearances as part of the application:

(a) a certificate of fire clearance from the State Fire Marshal or designated local fire authority certifying compliance with local and state fire codes;

(b) a satisfactory report by the local health department for facilities providing food service; and

(c) a current local business license if required.

(3) The applicant shall submit background clearance documents as required in R430-6.

(4) The applicant shall submit with the completed application a non-refundable application fee as established in accordance with Subsection 26-39-301(1)(c).

(5) The applicant shall submit documentation of attendance at the Department's new provider orientation.

(6) The Department shall render a decision on an initial license or certificate application within 60 days of receipt of a complete application.

(7) The applicant must pay fees and reapply for a license or certificate if the applicant does not complete the application process, including all necessary submissions and inspections, within six months of first submitting any portion of an application.

(8) The Department may deny an application for a license or certificate if, within the five years prior to the date of the application, the applicant:

(a) held a license or certificate which was:

(i) closed under an immediate closure as specified in subsection R430-1-10 ;

(ii) revoked;

(iii) closed as a result of a settlement agreement resulting from a notice of intent to revoke or a notice of revocation; or

(iv) voluntarily closed after an inspection of the facility resulted in findings of rule violations that would have resulted in a notice of intent to revoke or a notice of revocation had the facility not voluntarily closed.

(b) has unpaid fees or civil money penalties owed to the Department.

(9) Pursuant to R501-12-4(8)(h), a provider may not be licensed to provide child care in a facility that is also licensed to provide foster care, proctor care, or another licensed human service program.

R430-1-4. License or Certificate Expiration and Renewal.

(1) Each license or certificate expires at midnight on the day designated on the license or certificate as the expiration date, unless previously revoked by the Department, or voluntarily closed by the licensee or certificate holder.

(2) At least 30 days prior to the expiration of the current license or certificate, the licensee or certificate holder shall submit a completed application, applicable fees and, for facilities providing food service, a satisfactory report by the local health department.

(3) A licensee or certified provider who fails to renew his or her license by the expiration date may have an additional 30 days to complete the renewal if he or she pays a late fee.

(4) The Department shall not renew a license or certificate for a child care facility that discontinues child care services.

R430-1-5. Change in License or Certificate.

(1) A licensee whose ownership or controlling interest will change must submit to the Department, at least 30 days prior to the proposed change in ownership, an initial license or certificate application.

(2) A change in ownership that requires action under subsection (1) includes any change that:

(a) transfers the business enterprise to another person or entity;

(b) is a merger with another business entity if the directors or principals in the merged entity differs by 49 percent or more from the directors or principals of the original licensee; or

(c) creates a separate corporation, including a wholly owned subsidiary, if the board of directors of the separate corporation differs by 49 percent or more from the board of the original licensee.

(3) The licensee or certificate holder shall submit to the Department a completed application to amend or modify an existing license at least 30 days before any of the following proposed or anticipated changes:

(a) an increase or decrease of licensed or certified capacity, including when remodeling of the facility changes the amount of usable indoor or outdoor space where care is provided;

(b) a change in the name of the facility;

(c) a change in the regulation category of the facility;

(d) a change in the center director; or

(e) a change in the name of the licensee or certificate holder.

(4) An increase of capacity may require payment of an additional fee. This fee is the difference in the fee for the existing and proposed capacities.

(5) The Department may issue an amended license or certificate when the Department verifies that the applicant and facility are in compliance with all applicable rules. The expiration date of the amended license or certificate remains the same as the prior license or certificate.

R430-1-6. License or Certificate Capacity, Transferability, and Posting.

(1) The number of children in care at any given time shall not exceed the capacity identified on the license or certificate.

(2) A license or certificate is not assignable or transferable.

(3) The licensee or certificate holder shall post the license or certificate on the facility premises in a place readily visible and accessible to the public.

R430-1-7. Compliance Assurance.

(1) The Department shall conduct an annual announced and an annual unannounced inspection of each licensed or certified facility to:

(a) determine compliance with rules; and

(b) verify compliance with variance conditions, if applicable.

(2) If allegations of rule violations are reported to the Department, the Department shall conduct a complaint investigation as specified in Utah Code, 26-39-501.

(3) If the Department finds that a rule violation has occurred, the Department shall issue a Statement of Findings to the provider. The Statement of Findings shall include:

(a) the specific rule(s) violated;

(b) a description of the violation with the facts which constitute the violation; and

(c) the date by which the finding of noncompliance must be corrected.

(4) The Department may conduct follow-up inspections as needed to verify correction of noncompliance.

(5) Information regarding cited findings and substantiated complaints shall be available to the public on the Department's website.

R430-1-8. Conditional Status.

(1) The Department may place a license or certificate on a conditional status for the following causes:

(a) chronic, ongoing noncompliance with rules; or

(b) a single serious rule violation which places children's health or safety in immediate jeopardy;

(2) The Department shall establish the length of the conditional status and set the conditions that the licensee or certificate holder must satisfy to remove the conditional status.

(3) During the period of the conditional license or certificate the Department shall conduct increased monitoring of the facility to ensure compliance with the rules.

R430-1-9. Revocation.

(1) The Department may revoke a license or certificate if the licensee or certificate holder:

(a) fails to meet the conditions of a license or certificate on conditional status;

(b) violates the Child Care Licensing Act;

(c) provides false or misleading information to the Department;

(d) refuses to allow authorized representatives of the Department access to the facility to ascertain compliance with rules;

(e) refuses to submit or make available to the Department any written documentation required to verify compliance with rules;

(f) commits one or more serious rule violations which result in death or serious harm to a child, or which place children at risk of death or serious harm; or

(g) has committed acts that would exclude a person from being licensed or certified under R430-6.

(2) Within 10 working days after receipt of notice of revocation, the licensee or certificate holder must provide the Department with the names and mailing addresses of parents or legal guardians of each child cared for at the facility so the Department can notify the parents and guardians of the notice of revocation.

R430-1-10. Immediate Closure.

(1) The Department may order the immediate closure of a facility if conditions create a clear and present danger to children in care and require immediate action to protect their health or safety.

(2) Within 10 working days after receipt of an immediate closure, the licensee or certificate holder must provide the Department with the names and mailing addresses of parents or legal guardians of each child cared for at the facility so the Department can notify the parents and guardians of the notice of immediate closure.

R430-1-11. Death or Serious Injury of a Child in Care.

The Department may order a provider to temporarily suspend child care services and/or prohibit new enrollments if the Department learns of the death or serious injury of a child in care, pending a review by the Child Fatality Review Committee or receipt of a medical report determining the probable cause of the death or injury.

R430-1-12. Variances.

(1) If an applicant, licensee, or certificate holder cannot comply with a rule but can meet the intent of the rule in another way, he or she may apply for a variance to that rule.

(2) An applicant, licensee, or certificate holder requesting a variance shall submit a completed variance request form to the Department.

(3) If needed, the Department may require additional information before acting on the request.

(4) The Department shall act upon each request for a variance within 60 days of the receipt of the completed request and all additional information required by the Department.

(5) If the Department approves the request, the licensee or certificate holder shall keep a copy of the approved variance on file in the facility and make it publicly available.

(6) The Department may grant variances for up to 12 months.

(7) The Department may impose health and safety requirements as a condition of granting a variance.

(8) The Department may revoke a variance if:
(a) the licensee or certificate holder is not meeting the intent of the varied rule by the documented alternative means;
(b) the licensee or certificate holder fails to comply with the conditions of the variance; or
(c) a change in statute, rule, or case law affects the justification for the variance.
(9) The Department shall not issue a variance to the background screening requirements of Utah Code, 26-39-404 and administrative rule R430-6.

R430-1-13. Operating Without a License.

(1) If a person is providing care for more than four unrelated children without the appropriate license or certificate, the Department may:

(a) issue a cease and desist order; or
(b) allow the person to continue operation if:
(i) the person was unaware of the need for a license or certificate;
(ii) conditions do not create a clear and present danger to the children in care; and
(iii) the person agrees to apply for the appropriate license or certificate within 30 calendar days of notification by the Department.

(2) If a person providing care without the appropriate license or certificate agrees to apply for a license or certificate as specified above in Subsection (1)(b)(iii) but does not submit the required application within 30 days, the Department shall issue a cease and desist order.

R430-1-14. Penalties.

(1) A violation of any rule is punishable by administrative civil money penalty of up to \$5,000 per day as provided in Utah Code Section 26-39-601.

(2) Assessment of any civil money penalty does not preclude the Department from also taking action to deny, place on conditional status, revoke, immediately close, or refuse to renew a license or certificate.

(3) Assessment of any administrative civil money penalty under this section does not preclude injunctive or other equitable remedies.

R430-1-15. Informal Discussions.

Independent of any administrative proceeding, an applicant, licensee, or certificate holder may request, within 30 days, to discuss a Department decision with Department staff.

KEY: child care facilities

Date of Enactment or Last Substantive Amendment: 2012
Authorizing, and Implemented or Interpreted Law: 26-39; 26-21-12; 26-21-13

Health, Family Health and
 Preparedness, Child Care Licensing
R430-2
 General Licensing Provisions, Child
 Care Facilities

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 35579

FILED: 12/23/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is obsolete and will be combined with another obsolete rule, Rule R430-3, in a new rule to be numbered Rule R430-1. (DAR NOTE: The proposed repeal of Rule R430-3 is under DAR No. 35580 and the proposed new Rule R430-1 is under DAR No. 35581 in this issue, January 15, 2012, of the Bulletin.)

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

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Because the content of this rule is being moved to another rule, the costs that currently occur will continue. Therefore, the agency does not anticipate any cost or savings associated with this repeal.

◆ **LOCAL GOVERNMENTS:** Because the content of this rule is being moved to another rule, the costs that currently occur will continue. Therefore, the agency does not anticipate any cost or savings associated with this repeal.

◆ **SMALL BUSINESSES:** Because the content of this rule is being moved to another rule, the costs that currently occur will continue. Therefore, the agency does not anticipate any cost or savings associated with this repeal.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because the content of this rule is being moved to another rule, the costs that currently occur will continue. Therefore, the agency does not anticipate any cost or savings associated with this repeal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the content of this rule is being moved to another rule, the agency does not anticipate any increased costs for compliance.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As requested by Governor Herbert, this rule was carefully reviewed with impacted business and other parties. This rule will be repealed and replaced by a new Rule R430-1 with streamlined and simplified language. No new costs to business are expected by repeal of this rule.

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

HEALTH
 FAMILY HEALTH AND PREPAREDNESS,
 CHILD CARE LICENSING
 CANNON HEALTH BLDG
 288 N 1460 W
 SALT LAKE CITY, UT 84116-3231
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Teresa Whiting by phone at 801-538-6320, by FAX at 801-538-6325, or by Internet E-mail at twiting@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 03/01/2012

AUTHORIZED BY: David Patton, PhD, Executive Director

R430. Health, Family Health and Preparedness, Child Care Licensing.

[R430-2. General Licensing Provisions, Child Care Facilities.

R430-2-1. Authority and Purpose.

This rule is adopted pursuant to Title 26, Chapter 39. It defines the standards that a person must follow to obtain a license for a child care facility.

R430-2-2. Informal Discussions.

Independent of any administrative proceeding, an applicant may request, within 30 days, to discuss a Department decision with Department staff.

R430-2-3. Initial Application.

(1) An applicant for a license shall submit to the Utah Department of Health a completed license application on a form furnished by the Department.

(2) Each applicant shall comply with all regulations, ordinances, and codes, zoning, fire, safety, sanitation, building and licensing laws of the city and county in which the facility is located. The applicant shall obtain the following clearances and submit them to the Department as part of the application:

(a) a certificate of fire clearance from the State Fire Marshal or designated local fire authority certifying compliance with local and state fire codes;

(b) beginning July 1, 2006, a satisfactory report by the local health department for facilities providing food service; and

(c) a current local business license if required.

(3) The applicant shall:

(a) list all officers, members of the boards of directors, trustees, stockholders, partners, or other persons who have a greater than 25 percent interest in the facility;

(b) provide the name, address, percentage of stock, shares, partnership, or other equity interest of each person; and

(c) list, for all owners, all child care facilities in the state or other states in which they are officers, directors, trustees, stockholders, partners, or in which they hold any interest.

(4) The applicant shall provide the following written assurances on all individuals listed in R430-2-3(3):

(a) none of the persons has been convicted of a felony;

(b) none of the persons has been found in violation of any local, state, or federal law which arises from or is otherwise related to the individual's relationship to a child care facility;

(c) none of the persons within the five years prior to the date of application had an interest in a licensed child care facility that has been closed as a result of a settlement agreement resulting from a license revocation; and

(d) none of the persons has been convicted of child abuse, neglect, or exploitation.

(5) The applicant shall submit background clearance documents as required in R430-6.

(6) The applicant shall submit with the completed application a non-refundable license fee as established in accordance with Subsection 26-39-104(1)(c).

R430-2-4. Initial License Issuance or Denial.

(1) The Department shall render a decision on an initial license application within 60 days of receipt of a complete application.

(2) The applicant must pay fees and reapply for a license if the applicant does not complete the application including all necessary submissions within six months of first submitting any portion of an application.

(3) Upon verification of compliance with licensing rules, the Department shall issue a license.

(4) The licensed capacity shall be limited by the square footage of usable space throughout the center. There shall be at least 35 square feet per child.

(a) Bathrooms, closets, lockers, staff desks, stationary storage units, hallways, corridors, alcoves, vestibules, kitchens, offices, and napping rooms shall not be included in calculating indoor play space. However furniture, fixtures, or equipment used by children, for the care of children, and to store classroom materials shall be included in calculating indoor play space.

(b) Licensed capacities shall not exceed those set forth by local ordinances.

(c) The number of children in care at any given time shall not exceed the capacity identified on the license.

(5) The Department shall issue a written decision denying a license if the applicant and the facility are not in compliance with the rules.

(6) Pursuant to R501-12-4(8)(h), a provider may not be licensed to provide foster care and child care at the same time.

R430-2-5. License Extension.

~~————— A licensee that fails to renew its license by the license expiration date may have an additional 30 days to complete the renewal if the licensee pays a late fee.~~

R430-2-6. Expiration and Renewal.

~~————— (1) Each license expires at midnight on the day designated on the license as the expiration date, unless previously revoked by the Department.~~

~~————— (2) At least 30 days prior to the expiration of the current license, the licensee shall submit a completed license application, applicable fees and, beginning July 1, 2006 for facilities providing food service, a satisfactory report by the local health department.~~

~~————— (3) The Department shall not renew a license for a child care facility that discontinues child care services.~~

R430-2-8. Change of Ownership.

~~————— (1) A licensee whose ownership or controlling interest has changed must submit a completed license application, applicable clearances, and fees to the Department 30 days prior to the proposed change. The licensee shall obtain the following clearances and submit them to the Department as part of the application:~~

~~————— (a) a certificate of fire clearance from the State Fire Marshal or designated local fire authority certifying compliance with local and state fire codes;~~

~~————— (b) a satisfactory report by a local health department for facilities providing food service; and~~

~~————— (c) a current local business license if required.~~

~~————— (2) A change in ownership that requires action under subsection (1) includes any change that:~~

~~————— (a) transfers the business enterprise to another person or firm;~~

~~————— (b) is a merger with another business entity if the directors or principals in the merged entity differs by 49 percent or more from the directors or principals of the original licensee; or~~

~~————— (d) creates a separate corporation, including a wholly owned subsidiary, if the board of directors of the separate corporation differs by 49 percent or more from the board of the original licensee.~~

~~————— (3) A transfer between departments of government agencies for management of a government-owned childcare facility is not a change of ownership.~~

~~————— (4) Before the Department may issue a new license for a change of ownership, the prospective licensee shall document that:~~

~~————— (a) all documents required by rules applicable to the prior licensee remain in the facility and have been transferred to the custody of the new licensee; and~~

~~————— (b) the prospective licensee has adopted the existing policies and procedures manual or a new manual has been approved by the Department and adopted by the facility governing body before the change of ownership occurs;~~

~~————— (5) The Department shall not issue a new license until the prospective licensee corrects all previously cited and not yet corrected violations. The prospective licensee may request a new correction date before the change of ownership becomes effective.~~

~~————— (6) When the Department verifies that the facility is in compliance with all licensing rules, the Department shall issue a new license effective the date that the Department determines compliance.~~

R430-2-9. Change in License.

~~————— (1) The licensee shall submit a completed license application to amend or modify an existing license at least 30 days before any of the following proposed or anticipated changes:~~

~~————— (a) increase or decrease of licensed capacity;~~

~~————— (b) change in name of facility;~~

~~————— (c) change in license category;~~

~~————— (d) change of license classification;~~

~~————— (e) change in center director;~~

~~————— (f) change in name of licensee; and~~

~~————— (g) change in area where child care is provided or a change in interior usable play space.~~

~~————— (2) An increase of licensed capacity may require payment of an additional license fee. This fee is the difference in the license fee for the existing and proposed capacities.~~

~~————— (3) The Department may issue an amended license when the Department verifies that the licensee and facility are in compliance with all licensing rules. The expiration date of the amended license remains the same as the prior license.~~

R430-2-10. License Transferability, Posting.

~~————— (1) A license is not assignable or transferable.~~

~~————— (2) The licensee shall post the license on the facility premises in a place readily visible and accessible to the public.~~

R430-2-11. Voluntary Closure.

~~————— A licensee that voluntarily ceases operation shall:~~

~~————— (1) notify the Department and the children's families at least 30 days before the effective date of closure; and~~

~~————— (2) make provision for the safe keeping of records.~~

KEY: child care facilities

~~**Date of Enactment or Last Substantive Amendment: May 25, 2006**~~

~~**Notice of Continuation: July 27, 2007**~~

~~**Authorizing, and Implemented or Interpreted Law: 26-39; 26-21-12; 26-21-13]**~~

Health, Family Health and
Preparedness, Child Care Licensing
R430-3
General Child Care Facility Rules
Inspection and Enforcement

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 35580

FILED: 12/23/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is obsolete and will be combined with another obsolete rule, Rule R430-2, in a new rule to be numbered Rule R430-1. (DAR NOTE: The proposed repeal of Rule R430-2 is under DAR No. 35579 and the proposed new Rule R430-1 is under DAR No. 35581 in this issue, January 15, 2012, of the Bulletin.)

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

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: Because the content of this rule is being moved to another rule, the costs that currently occur will continue. Therefore, the agency does not anticipate any cost or savings associated with this repeal.
- ◆ LOCAL GOVERNMENTS: Because the content of this rule is being moved to another rule, the costs that currently occur will continue. Therefore, the agency does not anticipate any cost or savings associated with this repeal.
- ◆ SMALL BUSINESSES: Because the content of this rule is being moved to another rule, the costs that currently occur will continue. Therefore, the agency does not anticipate any cost or savings associated with this repeal.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Because the content of this rule is being moved to another rule, the costs that currently occur will continue. Therefore, the agency does not anticipate any cost or savings associated with this repeal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the content of this rule is being moved to another rule, the agency does not anticipate any increased costs for compliance.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As requested by Governor Herbert, this rule was carefully reviewed with impacted business and other parties. This rule will be repealed and replaced by a new Rule R430-1 with streamlined and simplified language. No new costs to business are expected by repeal of this rule.

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

HEALTH
 FAMILY HEALTH AND PREPAREDNESS,
 CHILD CARE LICENSING
 CANNON HEALTH BLDG
 288 N 1460 W
 SALT LAKE CITY, UT 84116-3231
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Teresa Whiting by phone at 801-538-6320, by FAX at 801-538-6325, or by Internet E-mail at twhiting@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 03/01/2012

AUTHORIZED BY: David Patton, PhD, Executive Director

R430. Health, Family Health and Preparedness, Child Care Licensing.

~~**R430-3. General Child Care Facility Rules Inspection and Enforcement.**~~

~~**R430-3-1. Legal Authority and Purpose.**~~

~~———— This rule is adopted pursuant to Title 26, Chapter 39. It delineates the role and responsibility of the Department in the enforcement of rules pertaining to health and safety in all child care facilities regulated by Title 26, Chapter 39. It provides criteria to ensure that sanctions are applied consistently and appropriately.~~

~~**R430-3-2. Informal Discussions.**~~

~~———— Independent of any administrative proceeding, a licensee may request, within 30 days, to discuss a Department decision with Department staff.~~

~~**R430-3-3. Definitions.**~~

- ~~———— (1) "Deficiency" means a violation of any rule provision.~~
- ~~———— (2) "Department" means the Department of Health.~~
- ~~———— (3) "Facility" means the building and adjacent property, equipment, and supplies devoted to the child care operation.~~
- ~~———— (4) "High Risk for Harm" means there is the potential for serious injury to a child.~~
- ~~———— (5) "Inspection" means observation, measurement, review of documentation, and interview to determine compliance with rules.~~
- ~~———— (6) "Investigation" means an in-depth inspection of specific alleged rule violations.~~
- ~~———— (7) "Licensee" means the legally responsible person, people, program, or agency that hold a valid Department of Health issued child care license.~~
- ~~———— (8) "Statement of Findings" means a statement of one or more specific rule violations which, if not corrected, will prompt the Department to take disciplinary action.~~
- ~~———— (9) "Technical Assistance" means the noting of a rule violation and providing information on how to come into compliance.~~

~~**R430-3-4. Compliance Assurance.**~~

- ~~———— (1) The Department shall conduct an announced and unannounced inspection of each licensed facility to:~~
 - ~~———— (a) determine compliance with rules;~~
 - ~~———— (b) verify compliance with conditions placed on a license in a conditional status; and~~

~~_____ (c) verify compliance with variance conditions.
 _____ (2) If allegations of rule violations are reported to the Department, the Department shall conduct a complaint investigation.~~

~~_____ (a) The Department shall not investigate complaints from an anonymous source.~~

~~_____ (b) The Department shall inform complainants that they are guilty of a class B misdemeanor if they are giving false information to the Department with the purpose of inducing a change in a licensing status.~~

R430-3-5. Technical Assistance.

~~_____ If the Department finds a deficiency that does not pose a high risk for harm:~~

~~_____ (1) The Department shall offer technical assistance; and~~

~~_____ (2) the licensee shall provide a date by which correction must be made.~~

~~_____ (a) The correction date shall not exceed 30 days from the date of the inspection.~~

~~_____ (b) The licensee may request a correction date of more than 30 days if circumstances outside the licensee's control prevent compliance within 30 days.~~

R430-3-6. Statement of Findings.

~~_____ (1) If a licensee does not correct a deficiency by the correction date provided in R430-3-5(2), the Department shall issue a statement of findings that includes:~~

~~_____ (a) a citation to the violated rule;~~

~~_____ (b) a description of the violation with the facts which constitute the violation; and~~

~~_____ (c) the date by which correction must be made.~~

~~_____ (i) The correction date shall not exceed 30 days from the date of the subsequent inspection.~~

~~_____ (ii) The licensee may request a correction date of more than 30 days if circumstances outside the licensee's control prevent compliance within 30 days.~~

~~_____ (2) If a licensee violates a rule for which the licensee previously received technical assistance, the Department shall issue a statement of findings that includes:~~

~~_____ (a) a citation to the violated rule;~~

~~_____ (b) a description of the violation with the facts which constitute the violation; and~~

~~_____ (c) the date by which the correction must be made.~~

~~_____ (i) The correction date shall not exceed 30 days from the date of the inspection.~~

~~_____ (ii) The licensee may request a correction date of more than 30 days if circumstances outside the licensee's control prevent compliance within 30 days.~~

~~_____ (3) If a licensee violates a rule that creates a high risk for harm, the Department shall issue a statement of findings that includes:~~

~~_____ (a) a citation to the violated rule;~~

~~_____ (b) a description of the violation with the facts which constitute the violation; and~~

~~_____ (c) the date by which the correction must be made which shall not exceed 30 days from the date of the inspection.~~

R430-3-7. Directed Plan of Correction.

~~_____ The Department may issue a directed plan of correction that specifies how and when cited findings will be corrected if a licensee:~~

~~_____ (1) fails to comply by the correction date specified in R430-3-6; or~~

~~_____ (2) violates the same rule provision more than three times within any 12-month period.~~

R430-3-8. Conditional Status.

~~_____ (1) The Department may place a license on a conditional status to assist the licensee to comply with rules if the licensee:~~

~~_____ (a) fails to comply with rules by correction date specified in R430-3-6;~~

~~_____ (b) violates the same rule provision more than three times within any 12-month period; or~~

~~_____ (c) violates multiple rule provisions.~~

~~_____ (2) The Department shall establish the length of the conditional status.~~

~~_____ (3) The Department shall set the conditions that the licensee must satisfy to remove the conditional status.~~

~~_____ (4) The Department shall return the license to a standard status when the licensee meets the conditions of the conditional status.~~

R430-3-9. Revocation.

~~_____ (1) The Department may revoke a license if the licensee:~~

~~_____ (a) fails to meet the conditions of a conditional status;~~

~~_____ (b) violates the Child Care Licensing Act;~~

~~_____ (c) provides false or misleading information to the Department;~~

~~_____ (d) refuses to submit or make available to the Department any written documentation required to do an inspection or investigation;~~

~~_____ (e) refuses to allow authorized representatives of the Department access to a facility to ascertain compliance to rules;~~

~~_____ (f) fails to provide, maintain, equip, and keep the facility in a safe and sanitary condition; or~~

~~_____ (g) has committed acts that would exclude a person from being licensed or certified under R430-6.~~

~~_____ (2) The Department may set the effective date of the revocation such that parents are given 10 business days to find other care for children.~~

R430-3-10. Immediate Closure.

~~_____ The Department may order the immediate closure of a facility if conditions create a clear and present danger to children in care and which require immediate action to protect their health or safety.~~

R430-3-11. Death or Serious Injury of a Child in Care.

~~_____ The Department may order a provider to restrict or prohibit new enrollments if the Department learns of the death or serious injury of a child in care, pending the review of the Child Fatality Review Committee or receipt of a medical report determining the probable cause of death or injury.~~

R430-3-12. Operating without a License.

~~If a person is providing care in lieu of care ordinarily provided by parents for more than four unrelated children without the appropriate license or certificate, the Department may:~~

- ~~(1) issue a cease and desist order; or~~
- ~~(2) allow the person to continue operation if:~~
 - ~~(a) the person was unaware of the need for a license or certificate;~~
 - ~~(b) conditions do not create a clear and present danger to children in care; and~~
 - ~~(c) the person agrees to apply for the appropriate license or certificate within 30 calendar days of notification by the Department.~~

R430-3-13. Deemed Status.

~~The Department may grant deemed status to facilities accredited by the National Academy of Early Childhood Programs or National Accreditation Commission for Early Care and Education Programs, National Association for Family Child Care or National Early Childhood Program Accreditation or the National After School Association in lieu of the licensing inspection by the Department upon completion of the following:~~

- ~~(1) As part of the license renewal process, the licensee must indicate on the license application its desire to initiate or continue deemed status.~~
- ~~(2) This request constitutes written authorization for the Department to attend the provider's exit conference with the accrediting agency.~~
- ~~(3) Upon receipt from the accrediting agency, the licensee shall submit copies of the following:~~
 - ~~(a) accreditation certificate;~~
 - ~~(b) survey reports and recommendations; and~~
 - ~~(c) progress reports of all corrective actions underway or completed in response to the accrediting body's action or Department recommendations.~~
- ~~(4) The Department may exercise its regulatory responsibility and authority regardless of the facility's deemed status.~~

R430-3-14. Variances.

- ~~(1) If a licensee or applicant cannot comply with a rule but can meet the intent of the rule in another way, he may apply for a variance to that rule. The Department cannot issue a variance to the background screening requirements of Section 26-39-107 and R430-6.~~
- ~~(2) A licensee or applicant requesting a variance shall submit a completed variance request form to the Department. The requests must include:~~
 - ~~(a) the name and address of the facility;~~
 - ~~(b) the rule from which the variance is being sought;~~
 - ~~(c) the time period for which the variance is being sought;~~
 - ~~(d) a detailed explanation of why the rule cannot be met;~~
 - ~~(e) the alternative means for meeting the intent of the rule;~~
 - ~~(f) how the health and safety of the children will be ensured; and~~
 - ~~(g) other justification that the licensee or applicant desires to submit.~~

- ~~(3) The Department may require additional information before acting on the request.~~
- ~~(4) The Department shall act upon each request for a variance within 60 days of the receipt of the completed request and all additional information required by the Department.~~
- ~~(5) If the Department approves the request, the licensee shall keep a copy of the approved variance on file in the facility and make it publicly available.~~
- ~~(6) The Department may grant variances for up to 12 months.~~
- ~~(7) The Department may impose health and safety conditions upon granting a variance.~~
- ~~(8) The Department may revoke a variance if:~~
 - ~~(a) the provider is not meeting the intent of the varied rule by the documented alternative means;~~
 - ~~(b) the facility fails to comply with the conditions of the variance; or~~
 - ~~(c) a change in statute, rule, or case law affects the justification for the variance.~~

R430-3-15. Statutory Penalties.

- ~~(1) A violation of any rule is punishable by administrative civil money penalty of up to \$5,000 per day as provided in Utah Code Section 26-39-108 or other civil penalty of up to \$5,000 per day or a class B misdemeanor on the first offense and a class A misdemeanor on the second offense as provided in Utah Code, Title 26, Chapter 23.~~
- ~~(2) The Department may impose an administrative civil money penalty of up to \$100 per day to a maximum of \$10,000 for unlicensed or uncertified child care.~~
- ~~(3) The Department may impose an administrative civil money penalty of up to \$100 per day to a maximum of \$10,000 for each violation of the Child Care Licensing Act or the rules promulgated pursuant to that act.~~
- ~~(4) Any person intentionally making false statements or reports to the Department may be fined \$100 for each violation to a maximum of \$10,000.~~
- ~~(5) Assessment of any civil money penalty does not preclude the Department from also taking action to deny, revoke, condition, or refuse to renew a license or certificate.~~
- ~~(6) Assessment of any administrative civil money penalty under this section does not preclude injunctive or other equitable remedies.~~
- ~~(7) Within 10 working days after receipt of a negative licensing action or imposition of a fine, each child care program must provide the Department with the names and mailing addresses of parents or legal guardians of each child cared for at the facility so the Department can notify the parents and guardians of the negative licensing action.~~

KEY: child care facilities

Date of Enactment or Last Substantive Amendment: February 6, 2006

Notice of Continuation: August 13, 2007

Authorizing, and Implemented or Interpreted Law: 26-39]

Health, Family Health And Preparedness, Child Care Licensing **R430-6**

Background Screening

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35573

FILED: 12/23/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to replace outdated language related to statutory penalties for noncompliance, to reflect current state statute.

SUMMARY OF THE RULE OR CHANGE: The change removes language related to criminal penalties for rule violations to reflect current state statute.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Some state agencies operate or sponsor child care programs. However, because this amendment would not change any of the requirements for child care programs, the Department does not anticipate that this rule will result in any new costs or savings to child care programs operated by state agencies.

◆ **LOCAL GOVERNMENTS:** Some local governments operate or sponsor child care programs. However, because this amendment would not change any of the requirements for child care programs, the Department does not anticipate that this rule will result in any new costs or savings to child care programs operated by state agencies.

◆ **SMALL BUSINESSES:** Almost all child care facilities are small businesses. However, because this amendment would not change any of the requirements for child care programs, the Department does not anticipate that this rule will result in any new costs or savings to child care programs operated by state agencies.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because this rule does not impose any new requirement for child care providers, there is no anticipated compliance costs for affected persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this rule does not alter requirements for child care providers, there are no anticipated new costs or savings to entities or persons that are not small businesses.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules may not impose criminal penalties without legislative authorization. This rule change modifies this rule to comply.

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

HEALTH
FAMILY HEALTH AND PREPAREDNESS,
CHILD CARE LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Teresa Whiting by phone at 801-538-6320, by FAX at 801-538-6325, or by Internet E-mail at twhiting@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 03/01/2012

AUTHORIZED BY: David Patton, PhD, Executive Director

R430. Health, Family Health and Preparedness, Child Care Licensing.

R430-6. Background Screening.

R430-6-1. Authority and Purpose.

This rule is promulgated pursuant to Title 26, Chapter 39. It establishes requirements for background screenings for child care programs.

R430-6-9. Statutory Penalties.

~~[(1) A violation of any rule is punishable by administrative civil money penalty of up to \$5,000 per day as provided in Utah Code, Title 26, Chapter 39-601 or other civil penalty of up to \$5,000 per day or a Class B misdemeanor on the first offense and a Class A misdemeanor on the second offense as provided in Utah Code, Title 26, Chapter 23.~~

~~(2) Any person intentionally making false statements or reports to the Department may be fined \$100 for each violation to a maximum of \$10,000.~~

~~(3) Assessment of any civil money penalty does not preclude the Department from also taking action to deny, revoke, condition, or refuse to renew a license or certificate.~~

~~(4) Assessment of any administrative civil money penalty under this section does not preclude injunctive or other equitable remedies.](1) A violation of any rule is punishable by an administrative civil money penalty of up to \$5,000 per day as provided in Utah Code Section 26-39-601.~~

~~(2) Assessment of any civil money penalty does not preclude the Department from also taking action to deny, place on~~

conditional status, revoke, immediately close, or refuse to renew a license or certificate.

(3) Assessment of any administrative civil money penalty under this section does not preclude injunctive or other equitable remedies.

KEY: child care facilities

Date of Enactment or Last Substantive Amendment: [~~January 1, 2010~~2012]

Notice of Continuation: August 13, 2007

Authorizing, and Implemented or Interpreted Law: 26-39

Health, Family Health and Preparedness, Child Care Licensing **R430-50** Residential Certificate Child Care

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35574

FILED: 12/23/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As part of the Department's rule review requested by the Governor's Office, the Department concluded that some portions of this rule may exceed the Department's rulemaking authority, and are therefore being eliminated. In addition, the requirement for staff TB testing is being removed based on a recommendation from the state's TB Advisory Board which indicated that child care providers are not considered to be a high risk group for tuberculosis.

SUMMARY OF THE RULE OR CHANGE: The proposed change removes requirements for: indoor temperature; a mandatory outdoor play area; tuberculosis testing; training for substitute caregivers; first aid supplies; documentation of emergency drills; and rest periods.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** No state agencies operate in-home child care programs so there are no anticipated costs or savings to state budgets associated with this rule change.

◆ **LOCAL GOVERNMENTS:** No local governments operate in-home child care programs so there are no anticipated costs or savings to local governments associated with this rule change.

◆ **SMALL BUSINESSES:** Almost all in-home residential certificate child care facilities are small businesses. Because

this rule lessens the requirements for residential certificate child care providers, there may be some cost savings to residential certificate providers. An individual provider may see as savings of less than \$100 due to the reduced requirements for training, and first aid supplies.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because this rule lessens the requirements for residential certificate child care facilities, there may be some cost savings to individual who are residential certificate providers. An individual provider may see a savings of less than \$100 due to the reduced requirements for training, first aid supplies, and activity materials.

COMPLIANCE COSTS FOR AFFECTED PERSONS: TB testing costs are born by the individual being tested. Because this rule removes the requirements for individual TB testing, there will be some cost savings to individuals who no longer need this test. Depending on where the test is completed, costs per test could range from \$20 to \$100. In those rare instances where follow-up x-rays are required, costs could range from \$100 to several thousand dollars, depending on where the x-ray is done and what follow-up is required as a result of the x-ray.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A careful and thorough review of child care licensing rules was undertaken during the last year. Health care professionals recommended that testing of staff for tuberculosis was not necessary. Removal of this requirement will save business both time and money. Other changes should also reduce regulatory burdens.

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

HEALTH
FAMILY HEALTH AND PREPAREDNESS,
CHILD CARE LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Teresa Whiting by phone at 801-538-6320, by FAX at 801-538-6325, or by Internet E-mail at twhiting@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 03/01/2012

AUTHORIZED BY: David Patton, PhD, Executive Director

R430. Health, Family Health and Preparedness, Child Care Licensing.**R430-50. Residential Certificate Child Care.****R430-50-1. Legal Authority and Purpose.**

This rule is promulgated pursuant to Title 26, Chapter 39. This rule establishes standards for the operation and maintenance of residentially certified child care providers who care for one to eight children in their home. It establishes minimum requirements for the health and safety of children in the care of residentially certified providers.

R430-50-2. Definitions.

- (1) "Body fluid" means blood, urine, feces, vomit, mucus, and saliva, ~~or breast milk~~.
- (2) "Certificate holder" means the person holding a Department of Health child care certificate.
- (3) "Department" means the Utah Department of Health.
- (4) "Emotional abuse" means behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning a child, constant criticism, rejection, profane language, and inappropriate physical restraint.
- (5) "Health care provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.
- (6) "Inaccessible to children" means:
- locked, such as in a locked room, cupboard or drawer;
 - secured with a child safety device, such as a child safety cupboard lock or doorknob device;
 - behind a properly secured child safety gate;
 - located in a cupboard or on a shelf more than 36 inches above the floor; or
 - not in any location in a bathroom where a child could reach, including by climbing on a toilet, bathtub, or counter.
- (7) "Infant" means a child aged birth through 11 months of age.
- (8) "Infectious disease" means an illness that is capable of being spread from one person to another.
- (9) "Over-the-counter medication" means medication that can be purchased without a written prescription. This includes herbal remedies and vitamin and mineral supplements.
- (10) "Parent" means the parent or legal guardian of a child in care.
- (11) "Physical abuse" means causing nonaccidental physical harm to a child.
- (12) "Preschooler" means a child aged 2 through 4, and 5 year olds who have not yet started kindergarten.
- ~~[(13)] "Protrusion hazard" means a component or piece of hardware that could impale or cut a child if the child falls against it.~~
- ~~[(14)](13)~~ "Provider" means the certificate holder or a substitute.
- ~~[(15)](14)~~ "Related children" means children for whom a provider is the parent, legal guardian, step-parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.
- ~~[(16)](15)~~ "Sanitize" means to reduce the number of germs on a surface to such a level that disease transmission by that surface is unlikely.
- ~~[(17)](16)~~ "School age" means kindergarten and older age children.

~~[(18)](17)~~ "Sexual abuse" means abuse as provided in Utah Code, Section 76-5-404.1.

~~[(19)](18)~~ "Sexually explicit material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5a-2(8).

~~[(20)](19)~~ "Sleeping equipment" means a cot, mat, crib, bassinet, porta-crib, play pen, or bed.

~~[(21)](20)~~ "Stationary play equipment" means equipment such as a climber, a slide, a swing, a merry-go-round, or a spring rocker that is meant to stay in one location when a child uses it. Stationary play equipment does not include:

- a sandbox;
- a stationary circular tricycle;
- a sensory table; or
- a playhouse, if the playhouse has no play equipment, such as a slide, swing, ladder, or climber attached to it.

~~[(22)](21)~~ "Strangulation hazard" means something on a component of playground equipment on which a child's clothes or something around a child's neck could become caught. For example, bolt ends that extend more than two threads beyond the face of the nut, hardware configurations that form a hook or leave a gap or space between components, and open "S" type hooks.

~~[(23)](22)~~ "Supervision" means the function of observing, overseeing, and guiding a child or group of children.

~~[(24)](23)~~ "Substitute" means a person who assumes the certificate holder's duties under this rule when the certificate holder is not present. This includes emergency substitutes.

~~[(25)](24)~~ "Toddler" means a child aged 12 months but less than 24 months.

~~[(26)](25)~~ "Unrelated children" means children who are not related children.

~~[(27)](26)~~ "Use zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

~~[(28)](27)~~ "Volunteer" means a person who provides direct care to a child but does not receive direct or indirect compensation for doing so. A volunteer is not included in the provider to child ratio.

R430-50-4. Indoor Environment.

(1) The certificate holder shall ensure that any building or playground structure on the premises constructed prior to 1978 which has peeling, flaking, chalking, or failing paint is tested for lead based paint. If lead based paint is found, the certificate holder shall contact the local health department and follow all required procedures for the remediation of the lead based paint hazard.

(2) There shall be a working toilet and a working handwashing sink accessible to each non-diapered child in care.

(3) Each school age child shall have privacy when using the bathroom.

(4) The home shall be ventilated by mechanical ventilation, or by windows that open and have screens.

~~[(5)] The certificate holder shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.~~

~~[(6)](4)~~ The certificate holder shall maintain adequate light intensity for the safety of children and the type of activity

being conducted and shall keep the lighting equipment in good working condition.

~~[(7)](5)~~ For certificate holders who receive an initial certificate after 1 September 2008 there shall be at least 35 square feet of indoor play space for each child, including the providers' related children who are ages four through twelve and not counted in the provider to child ratios.

~~[(8)](6)~~ Indoor space per child may include floor space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used:

- (a) by children;
- (b) for the care of children; or
- (c) to store children's materials.

~~[(9)](7)~~ Bathrooms, closets, hallways, and entryways are not included when calculating indoor space for children's use.

R430-50-6. Outdoor Environment.

If there is an outdoor play area used by children in care, the following rules apply: ~~[(1) There shall be an outdoor play area for children that is safely accessible to children.]~~

(1) The outdoor play area shall be safely accessible to children.

(2) For certificate holders who received an initial certificate after 1 September 2008, the outdoor play area shall have at least 40 square feet of space for each child using the space at one time.

(3) The outdoor play area shall be enclosed within a 4 foot high fence or wall, or within a solid natural barrier that is at least 4 feet high if:

(a) the certificate holder's home is located on a street with a speed limit higher than 25 miles per hour, or within half a mile of a street with a speed limit higher than 25 miles per hour; or

(b) the certificate holder's home is located on a street with more than two lanes of traffic, or within half a mile of a street with more than two lanes of traffic.

(4) If any of the following hazards exist, they must be located behind a 4 foot high fence, wall, or solid barrier that separates the hazard from the children's outdoor play area:

(a) livestock on the certificate holder's property or within 50 yards of the certificate holder's property line;

(b) a water hazard, such as a swimming pool, pond, ditch, lake, reservoir, river, stream, creek, or animal watering trough, on the certificate holder's property or within 100 yards of the certificate holder's property line;

(c) dangerous machinery, such as farm equipment, on the certificate holder's property or within 50 yards of the certificate holder's property line;

(d) a drop-off of more than 5 feet on the certificate holder's property or within 50 yards of the certificate holder's property line; or

(e) barbed wire within 30 feet of the children's play area.

(5) The outdoor play area shall be free of poisonous plants, harmful objects, toxic or hazardous substances, and standing water.

(6) When in use by children, the outdoor play area shall be free of ~~[trash and]~~ animal excrement.

(7) If a fence or barrier is required in Subsections (3) or (4) above, or in Subsections ~~[(12)(9)(c)(i) or 12(10)(b)]~~ ~~[(12)(10)(e)]~~ below, there shall be no gap greater than five inches in the fence or

barrier, nor shall any gap between the bottom of the fence or barrier and the ground be greater than five inches.

~~[(8) Certificate holders who were issued a certificate prior to 1 September 2008 who do not have a fence as required by Subsections (3), (4), or (9)(b) shall have until 1 September 2011 to meet this requirement.]~~

~~[(9)](8)~~ The outdoor play area shall have a shaded area to protect each child from excessive sun and heat.

~~[(10)](9)~~ An outdoor source of drinking water, such as individually labeled water bottles, or a pitcher of water and individual cups that are taken outside, shall be available to each child whenever the outside temperature is 75 degrees or higher.

~~[(11)](10)~~ Stationary play equipment used by any child in care shall not be located over hard surfaces such as cement, asphalt, or packed dirt.

~~[(12)](11)~~ The certificate holder shall ensure that children using outdoor play equipment use it safely and in the manner intended by the manufacturer.

~~[(13)](12)~~ There shall be no openings of a size greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on any piece of stationary play equipment where the feet of any child in care whose head is entrapped in the opening cannot touch the ground.

~~[(14)](13)~~ There shall be no strangulation hazard on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.

~~[(15)](14)~~ There shall be no crush, shearing, or sharp edge hazards on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.

~~[(16)](15)~~ The certificate holder shall ensure that outdoor play areas and outdoor play equipment are maintained to protect each child's safety.

R430-50-7. Personnel.

(1) The certificate holder and all substitutes must:

(a) be at least 18 years of age; and

(b) have knowledge of and comply with all applicable laws and rules.

(2) The certificate holder may make arrangements for a substitute who is at least 18 years old and who is capable of providing care, supervising children, and handling emergencies in the absence of the certificate holder.

(3) Substitutes who care for children an average of 10 hours per week or more shall meet the ~~[training,]~~ first aid and CPR ~~and TB screening]~~ requirements of this rule.

(4) In an unforeseeable emergency, such as a medical emergency requiring immediate care at a hospital or at an urgent care center or a lost child, the certificate holder may assign an emergency substitute who has not had a criminal background screening to care for the children. The certificate holder may use an emergency substitute for up to 24 hours for each emergency event.

(a) The emergency substitute shall be at least 18 years of age.

(b) The emergency substitute is not required to meet the training, first aid and CPR, and TB screening requirements of this rule.

(c) The emergency substitute cannot be a person who has been convicted of a felony or misdemeanor or has been investigated for abuse or neglect by any federal, state, or local government

agency. The emergency substitute must provide a signed, written declaration to the certificate holder that he or she is not disqualified under this subsection.

(d) During the term of the emergency, the emergency substitute may be counted as a provider for the purpose of maintaining the required provider to child ratios.

(e) The certificate holder shall make reasonable efforts to minimize the time that the emergency substitute has unsupervised contact with the children in care.

(5) Any new non-emergency substitute or volunteer shall receive orientation training prior to assuming caregiving duties. Orientation training shall be documented in the individual's file and shall include the following topics:

~~[(a) specific job responsibilities;~~

~~_____ (b)(a) the certificate holder's emergency and disaster plan;~~

~~[(e)(b) the current child care certificate rules found in Sections R430-50-11 through 24;~~

~~[(d) introduction and orientation to the children in care;~~

~~_____ (e)(c) a review of the information in the health assessment for each child in care;~~

~~[(f)(d) procedure for releasing children to authorized individuals only;~~

~~[(g)(e) proper clean up of body fluids;~~

~~[(h)(f) signs and symptoms of child abuse and neglect, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;~~

~~[(i)(g) obtaining assistance in emergencies; and~~

~~[(j)(h) if the certificate holder accepts infants or toddlers for care, orientation training topics shall also include:~~

~~(i) preventing shaken baby syndrome and coping with crying babies; and~~

~~(ii) preventing sudden infant death syndrome.~~

~~(6) [Substitutes who care for children an average of 10 hours per week or more and the]The certificate holder shall complete a minimum of 10 hours of child care training each year, based on the certificate date. A minimum of 5 hours of the required annual training shall be face-to-face instruction.~~

~~(a) Documentation of annual training shall be kept [in each individual's]on file, and shall include the name of the training organization, the date, the training topic, and the total hours or minutes of training.~~

~~[(b) All non-emergency substitutes who begin employment partway through the certificate year shall complete a proportionate number of training hours based on the number of months worked prior to the certificate renewal date.~~

~~_____ (e)(b) Annual training hours shall include the following topics at least once every two years:~~

~~(i) a review of all of the current child care certificate rules found in Sections R430-50-11 through 24;~~

~~(ii) signs and symptoms of child abuse and neglect, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;~~

~~(iii) principles of child growth and development, including development of the brain; and~~

~~(iv) positive guidance; and~~

~~[(e)(c) if the certificate holder accepts infants or toddlers for care, required training topics shall also include:~~

~~(i) preventing shaken baby syndrome and coping with crying babies; and~~

~~(ii) preventing sudden infant death syndrome.~~

R430-50-9. Records.

(1) The certificate holder shall maintain on-site for review by the Department during any inspection the following general records:

~~[(a) documentation of the previous 12 months of semi-annual fire drills and annual disaster drills as specified in R430-50-10(7) and R430-50-10(9);~~

~~_____ (b)(a) current animal vaccination records as required in R430-50-22[(2)](1)(b);~~

~~[(e)(b) a six week record of child attendance, as required in R430-50-13(3);~~

~~[(d) all current variances granted by the Department;~~

~~_____ (e)(c) a current local health department kitchen inspection;~~

~~[(f)(d) an initial local fire department clearance for all areas of the home being used for care;~~

~~[(g)(e) approved initial "[CBS/MHS]CBS/LIS Consent and Release of Liability for Child Care" form for all providers, volunteers, and each person age 12 and older who resides in the certificate holder's home;~~

~~[(h)(f) if the certificate holder has been certified for more than a year, the most recent criminal background "Disclosure Statement" which includes all providers, volunteers, and each person age 12 and older who resided in the home of the certificate holder at any time since the last certificate renewal; and~~

~~[(i)(g) if the certificate holder has been certified for more than a year, the most recent "Request for Annual Renewal of [CBS/MHS]CBS/LIS Criminal History Information for Child Care" which includes all providers, volunteers, and each person age 12 and older who resided in the home of the certificate holder at any time since the last certificate renewal.~~

(2) The certificate holder shall maintain on-site for review by the Department during any inspection the following records for each enrolled child:

(a) an admission form containing the following information for each child:

(i) name;

(ii) date of birth;

~~[(iii) date of enrollment;~~

~~_____ (iv)(iii) the parent's name, address, and phone number, including a daytime phone number;~~

~~[(v)(iv) the names of people authorized by the parent to pick up the child;~~

~~[(vi)(v) the name, address and phone number of a person to be contacted in the event of an emergency if a provider is unable to contact the parent;~~

~~[(vii)(vi) child health information, as required in R430-50-14[(6)](7); and~~

~~[(viii)(vii) current emergency medical treatment and emergency medical transportation releases with the parent's signature;~~

~~(b) current immunization records or documentation of a legally valid exemption, as specified in R430-50-14[(4)](5) and [(5)](6); and~~

(c) a completed transportation permission form, if transportation services are offered to any child in care; and

~~[(d)](c)~~ a six week record of medication permission forms, and a six week record of medications actually administered, as specified in R430-50-17~~[(4)](3)~~ and R430-50-17~~[(6)](5)~~(f), if medications are administered to any child in care.

(3) The certificate holder shall maintain on-site for review by the Department during any inspection the following records for the certificate holder and each non-emergency substitute:

~~[(a) results of an initial TB screening, as required in R430-50-16(10) and (11);~~

~~[(b)](a)~~ orientation training documentation for all non-emergency substitutes as required in R430-50-7(5);

~~[(e)](b)~~ annual training documentation for the past two years~~[-, for the certificate holder and all non-emergency substitutes,]~~ as required in R430-50-7(6)(a); and

~~[(d)](c)~~ current first aid and CPR certification, as required in R430-50-10~~[(2)](1)~~ and R430-50-20~~[(3)](4)](1)(c)~~.

(4) The certificate holder shall maintain on-site for review by the Department during any inspection orientation training documentation for each volunteer as required in R430-50-7(5).

(5) The certificate holder shall ensure that information in any child's file is not released without written parental permission.

R430-50-10. Emergency Preparedness.

(1) The certificate holder shall post the home's street address and emergency numbers, including ambulance, fire, police, and poison control, near the telephone.

(2) The certificate holder and all substitutes who care for children an average of 10 hours per week or more shall maintain a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification. Equivalent CPR certification must include hands-on testing.

~~[(3) The certificate holder shall maintain first aid supplies in the home, including at least antiseptic, band-aids, and tweezers.~~

~~[(4)](3)~~ The certificate holder shall have an emergency and disaster plan which shall include at least the following:

(a) procedures for responding to medical emergencies and serious injuries that require treatment by a health care provider;

(b) procedures for responding to fire, earthquake, flood, power failure, and water failure;

(c) the location of and procedure for emergency shut off of gas, electricity, and water;

(d) procedures to be followed if a child is missing;

(e) the name and phone number of a substitute to be called in the event the certificate holder must leave the home for any reason; and

~~[(f) an emergency relocation site where children will be housed if the certificate holder's home is uninhabitable.~~

~~[(5)](4)~~ The certificate holder shall ensure that the emergency and disaster plan is followed in the event of an emergency.

~~[(6)](5)~~ The certificate holder shall conduct fire evacuation drills semi-annually. Drills shall include complete exit of all children and staff from the home.

~~[(7) The certificate holder shall document all fire drills, including:~~

~~(a) the date and time of the drill;~~

~~(b) the number of children participating;~~

~~(c) the total time to complete the evacuation; and~~

~~(d) any problems encountered.~~

~~[(8)](6)~~ The certificate holder shall conduct drills for disasters other than fires at least once every 12 months.

~~[(9) The certificate holder shall document all disaster drills, including:~~

~~(a) the type of disaster, such as earthquake, flood, prolonged power outage, or tornado;~~

~~(b) the date and time of the drill;~~

~~(c) the number of children participating;~~

~~(d) the total time to complete the evacuation; and~~

~~(e) any problems encountered.~~

~~[(10)](7)~~ The certificate holder shall vary the days and times on which fire and other disaster drills are held.

R430-50-11. Supervision and Ratios.

(1) The certificate holder or a substitute shall be physically present on-site and provide care and direct supervision of each child at all times, both indoors and outdoors. Direct care and supervision of each child includes:

(a) awareness of and responsibility for each child in care, including being near enough to intervene if needed;

(b) ensuring that there is a provider present inside the home when a child in care is inside the home, and a provider present in the outdoor play area when a child in care is outdoors, except as allowed in subsection (2) below for school age children; and

(c) monitoring of each sleeping infant in one of the following ways:

(i) by placing each infant for sleep in a location where the infant is within sight and hearing of a provider;

(ii) by in person observation of each sleeping infant at least once every 15 minutes; or

(iii) by using a Department-approved infant sleep monitoring device.

(2) A provider shall actively supervise each child during outdoor play to minimize the risk of injury to a child. A provider may allow only school age children to play outdoors while the provider is indoors, if:

(a) a provider can hear the children playing outdoors; and

(b) the children playing outdoors are in an area completely enclosed within a 4 foot high fence or wall, or a solid natural barrier that is at least 4 feet high.

(3) The certificate holder may permit a child to participate in supervised out of the home activities without the certificate holder if:

(a) the certificate holder has prior written permission from the child's parent for the child's participation; and

(b) the certificate holder has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts responsibility for the care and supervision of the child throughout the period of the out of home activity.

(4) The maximum allowed number of children in care at any one time is eight children, including no more than two children under the age of two. The number of children in care includes the providers' own children under the age of four.

(5) The total number of children in care may be further limited based on square footage, as found in Subsection R430-50-4[(7)](5) through [(9)](7).

R430-50-12. Injury Prevention.

(1) The certificate holder shall ensure that the home, outdoor play area, toys, and equipment are maintained and used in a safe manner to prevent injury to children.

(2) The certificate holder shall ensure that the indoor environment is free of tripping hazards such as unsecured flooring or cords in walkways.

(3) Areas accessible to children shall be free of unstable heavy equipment, furniture, or other items that a child could pull down on himself or herself.

(4) The following items shall be inaccessible to each child in care:

(a) firearms, ammunition, and other weapons on the premises. Firearms shall be stored separately from ammunition, in a cabinet or area that is locked with a key or combination lock, unless the use is in accordance with the Utah Concealed Weapons Act, or as otherwise allowed by law;

(b) tobacco, open containers of alcohol, illegal substances, and sexually explicit material;

(c) when in use: portable space heaters, fireplaces, and wood burning stoves;

(d) toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable materials;

(e) poisonous plants;

(f) matches or cigarette lighters;

(g) open flames;

(h) sharp objects, edges, corners, or points which could cut or puncture skin;

(i) for children age 4 and under, ropes, cords, chains, and wires long enough to encircle a child's neck, such as those found on window blinds or drapery cords;

(j) for children age 4 and under, empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons; and

(k) for children age 2 and under, toys or other items with a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches, or objects with removable parts that have a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches.

(5) The certificate holder shall ensure that all toxic or hazardous chemicals are stored in a container labeled with its contents.

(6) Electrical outlets and surge protectors accessible to children age four and younger shall have protective caps or safety devices when not in use.

(7) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.

(8) High chairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.

(9) If a wading pool is used:

(a) a provider must be at the pool supervising each child whenever there is water in the pool;

(b) diapered children must wear swim diapers and rubber pants whenever they are in the pool;

(c) the pool shall be emptied and sanitized after each use; and

(d) before each child in care uses the pool, the certificate holder shall obtain parental permission for the child to use the pool.

(10) If there is a swimming pool on the premises that is not emptied after each use:

(a) a provider must be at the pool supervising each child whenever a child in care is using the pool or has access to the pool;

(b) diapered children must wear swim diapers and rubber pants whenever they are in the pool;

(c) the certificate holder shall ensure that children are protected from unintended access to the pool in one of the following ways:

(i) the pool is enclosed within a fence or other solid barrier at least four feet high that is kept locked whenever the pool is not in use by any child in care; or

(ii) the pool has a properly working [power-]safety cover that meets ASTM Standard F1346, and the [power-]safety cover is in place whenever the pool is not in use by any child in care;

(d) the certificate holder shall maintain the pool in a safe manner;

(e) the certificate holder shall meet all applicable state and local laws and ordinances related to the operation of a swimming pool;

(f) if the pool is over six feet deep, there shall be a Red Cross certified life guard on duty, or a lifeguard certified by another agency that the certificate holder can demonstrate to the Department to be equivalent to Red Cross certification, any time any child in care has access to the pool; and

(g) before each child in care uses the pool, the certificate holder shall obtain parental permission for the child to use the pool.

(11) If there is a hot tub on the premises with water in it, the certificate holder shall ensure that children in care are protected from unintended access to the hot tub in one of the following ways:

(a) it shall have a properly working locking cover that is kept locked whenever there is any child in care on the premises; or

(b) it shall be surrounded by a four foot fence.

(12) If there is a trampoline on the premises that is accessible to any child in care, the certificate holder shall ensure compliance with the following requirements:

(a) A provider must be at the trampoline supervising its use whenever any child in care is on the trampoline.

(b) Only one person at a time may use a trampoline.

(c) No child in care shall be allowed to do somersaults or flips on the trampoline.

(d) The trampoline must have shock absorbing pads that completely cover its springs, hooks, and frame.

(e) The trampoline must be placed at least 6' away from any structure or object onto which a child could fall, including playground equipment, trees, and fences. If the trampoline is completely enclosed within properly installed netting that is in good repair and is at least 6' tall, and that is used as specified by the manufacturer, the trampoline must be placed at least 3' away from any structure or object onto which a child could fall, including playground equipment, trees, and fences.

(f) There shall be no ladders near the trampoline.

(g) No child in care shall be allowed to play under the trampoline when it is in use.

(h) A parent of each child in care who uses the trampoline shall sign a Department-approved permission form before his or her child uses the trampoline.

(i) The trampoline shall be placed over grass or six inches of protective cushioning, which shall extend six feet from the perimeter of the trampoline frame, or three feet from the perimeter of the trampoline frame if a net is used as specified above in subsection (e).

R430-50-14. Child Health.

(1) The certificate holder shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.

(2) All providers shall follow the reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation found in Utah Code, Section 62A-4a-403 and 62A-4a-411.

(3) The use of alcohol, illegal substances, or sexually explicit material on the premises or in vehicles used to transport children is prohibited any time that a child is in care.

(4) At any time when a child is in care, the provider shall ensure that tobacco is not used:

(a) in the home, garage, or any other building used by a child in care;

(b) in any vehicle that is being used to transport a child in care;

(c) within 25 feet of any entrance to the home, garage, or any other building occupied by a child in care; or

(d) in any outdoor area where a child in care plays, or within 25 feet of any outdoor area where a child in care plays.

(5) The certificate holder shall not enroll any child for care without documentation of:

(a) proof of current immunizations, as required by Utah law;

(b) proof of receiving at least one dose of each required vaccine prior to enrollment, and a written schedule to receive all subsequent required vaccinations; or

(c) written documentation of an immunization exemption due to personal, medical or religious reasons.

(6) The certificate holder shall not provide ongoing care to a child without documentation of:

(a) proof of current immunizations as required by Utah law; or

(b) written documentation of an immunization exemption due to personal, medical or religious reasons.

(7) The certificate holder shall not admit any child for care without the following written health information from the parent:

(a) known allergies;

~~[(b) known food sensitivities;~~

~~[(e)](b) acute and chronic medical conditions;~~

~~[(d)](c) instructions for special or non-routine daily health care;~~

~~[(e)](d) current medications; and,~~

~~[(f)](e) any other special health instructions for the certificate holder.~~

(8) If the parent of a child in care has informed the provider that his or her child has a food allergy~~[or sensitivity,]~~ that child shall not be given the food or beverage they are allergic to.

(9) The certificate holder shall ensure that each child's parent reviews, updates, and signs or initials the child's health information at least annually.

R430-50-16. Infection Control.

(1) All providers and volunteers shall wash their hands with soap and running water at the following times:

(a) before handling or preparing food or bottles;

(b) before and after eating meals and snacks or feeding a child;

(c) after diapering each child;

(d) after using the toilet or helping a child use the toilet;

(e) after coming into contact with any body fluid~~[- including breast milk];~~

(f) after playing with or handling animals;

(g) when coming in from outdoors; and

(h) before administering medication.

(2) The certificate holder shall ensure that each child washes his or her hands with soap and running water at the following times:

(a) before and after eating meals and snacks;

(b) after using the toilet;

(c) after coming into contact with any body fluid; and

(d) when coming in from outdoors.

(3) During outdoor play time, the requirements of Subsections (1) and (2) may be met by having each provider, volunteer, and child clean his or her hands with individual disposable wet wipes and hand sanitizer.

(4) The certificate holder shall ensure that toilet paper is accessible to each child, and that it is kept in a dispenser.

(5) The certificate holder shall ensure that children are taught proper hand washing techniques, and shall oversee hand washing whenever possible.

(6) Personal hygiene items such as toothbrushes, or combs and hair accessories that are not sanitized between each use, shall not be shared by children or used by a provider on more than one child. Each child's items shall be stored so that they do not touch another child's items.

(7) The certificate holder shall ensure that all washable toys and materials are cleaned and sanitized ~~[after each 5 days of use, or more often if]~~ as needed.

(8) Stuffed animals, cloth dolls, and dress-up clothes must be machine washable. Pillows must be machine washable, or have removable covers that are machine washable. The certificate holder shall ensure that all stuffed animals, cloth dolls, dress-up clothes, and pillows or covers are washed after each 5 days of use, or more often if needed.

(9) If a water play table or tub is used, the certificate holder shall ensure that the table or tub is washed and sanitized daily, and that each child washes his or her hands prior to engaging in the activity.

~~[(10) All providers who provide care an average of 10 hours or more each week shall be tested for tuberculosis (TB) using a testing method and follow-up that is acceptable to the Department. Testing shall take place prior to certification, and for each substitute within two weeks of assuming duties.~~

~~[(11) If the TB test is positive, the person shall provide documentation from a health care provider detailing:~~

~~(a) the reason for the positive reaction;~~

~~(b) whether the person is contagious; and~~

~~(c) if needed, how the person is being treated.~~

~~————(12)(10) Persons with contagious TB shall not work with, assist with, or be present with any child in care.~~

~~[(13) An individual having a medical condition which contra-indicates a TB test must provide documentation from a health care provider indicating the individual is exempt from testing, with an associated time frame, if applicable. The certificate holder shall maintain this documentation in the individual's file.~~

~~————(14)(11) A provider shall promptly change a child's clothing if the child has a toileting accident.~~

~~[(15) If a child's clothing is wet or soiled from any body fluid, the certificate holder shall ensure that:~~

- ~~————(a) the clothing is washed and dried; or~~
- ~~————(b) the clothing is placed in a leakproof container, labeled with the child's name, and returned to the parent.~~

~~————(16)(12) If a child uses a potty chair, the certificate holder shall ensure that it is cleaned and sanitized after each use.~~

~~[(17)(13) Except for diaper changes, which are covered in Section R430-50-23, [and children's clothing that is soiled from a toileting accident, which is covered in Subsection R430-50-16(15),]the certificate holder shall ensure that the following precautions are taken when cleaning up blood, urine, feces, and vomit[, and breast milk].~~

~~(a) The person cleaning up the substance shall wear waterproof gloves;~~

~~(b) the surface shall be cleaned using a detergent solution;~~

~~(c) the surface shall be rinsed with clean water;~~

~~(d) the surface shall be sanitized;~~

~~(e) if disposable materials such as paper towels or other absorbent materials are used to clean up the body fluid, they shall be disposed of in a leakproof plastic bag;~~

~~(f) if non-disposable materials, such as a cleaning cloth, mop, or re-usable rubber gloves are used to clean up the body fluid, they shall be washed and sanitized before reuse; and~~

~~(g) the person cleaning up the fluid shall wash his or her hands after cleaning up the body fluid.~~

~~[(18)(14) The certificate holder shall ensure that any child who is ill with an infectious disease is separated from any other children in care in a safe, supervised location.~~

~~[(19)(15) The certificate holder shall ensure that a parent of any child who becomes ill after arrival is contacted as soon as the illness is observed or suspected.~~

~~[(20)(16) The certificate holder shall ensure that the parents of every child in care are informed when any person in the home or child in care has an infectious disease or parasite. Parents shall be notified the day the infectious disease or parasite is discovered.~~

R430-50-17. Medications.

~~[(1) Only a provider trained in the administration of medications as specified in this rule may administer medication to a child in care.~~

~~————(2)(1) All over-the-counter and prescription medications shall:~~

- ~~(a) be labeled with the child's name;~~
- ~~(b) be kept in the original or pharmacy container;~~
- ~~(c) have the original label; and,~~
- ~~(d) have child-safety caps.~~

~~[(3)(2) The certificate holder shall ensure that all non-refrigerated over-the-counter and prescription medication is inaccessible to children. The certificate holder shall ensure that all refrigerated over-the-counter and prescription medication is placed in a waterproof container to avoid contamination between food and medication.~~

~~[(4)(3) The certificate holder shall have a written medication permission form completed and signed by the parent prior to the administering of any over-the-counter or prescription medication brought in by a parent for his or her child. The permission form must include:~~

- ~~(a) the name of the child;~~
- ~~(b) the name of the medication;~~
- ~~(c) written instructions for administration; including:~~
 - ~~(i) the dosage;~~
 - ~~(ii) the method of administration;~~
 - ~~(iii) the times and dates to be administered; and~~
 - ~~(iv) the disease or condition being treated; and~~
 - ~~(d) the parent signature and the date signed.~~

~~[(5)(4) If the certificate holder keeps over-the-counter medication that is not brought in by a parent for his or her child's use, the medication shall not be administered to any child without prior parental consent for each instance it is given. The consent must be either:~~

- ~~(a) prior written consent; or~~
- ~~(b) oral consent for which a provider documents in writing the date and time of the consent, and which the parent signs upon picking up the child.~~

~~[(6)(5) When administering medication, the person administering the medication shall:~~

- ~~(a) wash his or her hands;~~
- ~~(b) if the parent supplies the medication, check the medication label to confirm the child's name;~~

~~(c) if the parent supplies the medication, compare the instructions on the parent release form with the directions on the prescription label or product package to ensure that a child is not given a dosage larger than that recommended by the health care provider or the manufacturer;~~

~~(d) if the certificate holder supplies the medication, check the product package to ensure that a child is not given a dosage larger than that recommended by the manufacturer;~~

- ~~(e) administer the medication; and~~
- ~~(f) immediately record the following information:~~

- ~~(i) the date, time, and dosage of the medication given;~~
- ~~(ii) the signature or initials of the provider who administered the medication; and,~~
- ~~(iii) any errors in administration or adverse reactions.~~

~~[(7)(6) The certificate holder shall ensure that any adverse reaction to a medication or any error in administration is reported to the parent immediately upon recognizing the error or reaction, or after notifying emergency personnel if the reaction is life threatening.~~

~~[(8) The certificate holder shall not keep medications in the home for any child who is no longer enrolled.~~

R430-50-18. Napping.

~~[(1) The certificate holder shall ensure that children in care are offered a daily opportunity for rest or sleep in an~~

~~environment that provides a low noise level and freedom from distractions.~~

~~(2) If the certificate holder has a scheduled nap time for children, it shall not exceed two hours daily.~~

~~(3)(1) Sleeping equipment may not block exits at any time.~~

R430-50-19. Child Discipline.

(1) The certificate holder shall inform non-emergency substitutes, parents, and children of the certificate holder's behavioral expectations for children.

~~[(2) Providers and volunteers may discipline children using positive reinforcement and redirection, and by setting clear limits that promote a child's ability to become self-disciplined.~~

~~(3)(2) A provider may use gentle, passive restraint with a child only when it is needed to stop the child from injuring himself or herself or others or from destroying property.~~

~~[(4)(3) Disciplinary measures shall not include any of the following:~~

~~(a) any form of corporal punishment such as hitting, spanking, shaking, biting, pinching, or any other measure that produces physical pain or discomfort;~~

~~(b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds that specified in Subsection [(3)(2) above;~~

~~(c) shouting at any child;~~

~~(d) any form of emotional abuse;~~

~~(e) forcing or withholding of food, rest, or toileting; and,~~

~~(f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.~~

R430-50-21. Transportation.

(1) Any vehicle used for transporting any child in care shall:

(a) be enclosed;

(b) be equipped with individual, size appropriate safety restraints, properly installed and in working order, for each child being transported;

(c) be maintained in a safe condition and have a current vehicle registration and safety inspection;

(d) be maintained in a clean condition; and

(e) maintain temperatures between 60-90 degrees Fahrenheit when in use;

(2) The adult transporting any child in care shall:

(a) have and carry with him or her a current valid Utah driver's license, for the type of vehicle being driven, whenever he or she is transporting any child in care;

~~(b) have with him or her a copy of each child's [admission form as specified in R430-50-9(2)(a)]emergency contact information;~~

(c) ensure that each child in care being transported is wearing an appropriate individual safety restraint;

(d) ensure that each child is always attended by an adult while in the vehicle;

(e) ensure that all children remain seated while the vehicle is in motion;

(f) ensure that keys are never left in the ignition when the driver is not in the driver's seat; and

(g) ensure that the vehicle is locked during transport.

R430-50-23. Diapering.

If children in care are diapered on the premises, the following applies:

(1) The diapering area shall not be located in a food preparation or eating area.

(2) Children shall not be diapered directly on the floor, or on any surface used for another purpose.

(3) The diapering surface shall be smooth, waterproof, and in good repair.

(4) A provider shall clean and sanitize the diapering surface after each diaper change, or use a disposable non-permeable diapering surface that is thrown away after each diaper change.

(5) The provider shall wash his or her hands after each diaper change.

(6) The provider shall place soiled disposable diapers in a container that has a plastic lining and a tightly fitting lid, or place soiled diapers directly in an outdoor garbage container that has a tightly fitting lid or is inaccessible to children.

~~[(7) A provider shall daily clean and sanitize indoor containers where soiled diapers are placed.~~

~~(8) If cloth diapers are used:~~

~~(a) they shall not be rinsed at the facility; and~~

~~(b) after a diaper change, the provider shall place the cloth diaper directly into a leakproof container that is inaccessible to any child and labeled with the child's name, or a leakproof diapering service container.~~

~~(9)(7) The certificate holder shall ensure that each child's diaper is checked at least once every two hours, and that each child's diaper is changed promptly if it is wet or soiled. If a child is napping at the end of a two-hour period, the child's diaper must be checked when the child awakes.~~

KEY: child care facilities

Date of Enactment or Last Substantive Amendment: [January 1, 2011]2012

Notice of Continuation: June 6, 2008

Authorizing, and Implemented or Interpreted Law: 26-39

Health, Family Health and Preparedness, Child Care Licensing

R430-60

Hourly Child Care Center

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 35575

FILED: 12/23/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As part of the Department's rule review requested by the Governor's Office, the Department concluded that some portions of this rule may exceed the Department's rulemaking authority, and are therefore being eliminated. The entire rule is repealed and reenacted because the

organization, formatting, and numbering of the rule is being made consistent with the other operational rule for child care facilities.

SUMMARY OF THE RULE OR CHANGE: In addition to re-formatting and reorganizing the rule sections, the proposed change removes the requirement of tuberculosis (TB) testing of staff. This proposed change is based on a recommendation from the state's TB Advisory Board which indicated that child care providers are not considered to be a high risk group for tuberculosis.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** No state agencies operate hourly child care programs so there are no anticipated costs or savings to state budgets associated with this rule change.

◆ **LOCAL GOVERNMENTS:** Some local government operate hourly care programs. The agency does not anticipate a cost or savings to these programs beyond the individual employee savings outlined in "Compliance costs for affected persons" below.

◆ **SMALL BUSINESSES:** Almost all out of school time child care programs are small businesses. The agency does not anticipate a cost or savings to these programs beyond the individual employee savings outlined in "Compliance costs for affected persons" below.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The agency does not anticipate a cost or savings to these programs beyond the individual employee savings outlined in "Compliance costs for affected persons" below.

COMPLIANCE COSTS FOR AFFECTED PERSONS: TB testing costs are born by the individual being tested. Because this rule removes the requirements for individual TB testing, there will be some cost savings to individuals who no longer need this test. Depending on where the test is completed, costs per test could range from \$20 to \$100. In those rare instances where follow-up x-rays are required, costs could range from \$100 to several thousand dollars, depending on where the x-ray is done and what follow-up is required as a result of the x-ray.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A careful and thorough review of child care licensing rules was undertaken during the last year. Health care professionals recommended that testing of staff for tuberculosis was not necessary. Removal of this requirement will save business both time and money. Other changes should also reduce regulatory burdens.

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

HEALTH
FAMILY HEALTH AND PREPAREDNESS,

CHILD CARE LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Teresa Whiting by phone at 801-538-6320, by FAX at 801-538-6325, or by Internet E-mail at twhiting@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 03/01/2012

AUTHORIZED BY: David Patton, PhD, Executive Director

R430. Health, Family Health and Preparedness, Child Care Licensing.

[R430-60. Hourly Child Care Center.

R430-60-1. Legal Authority.

————— This rule is promulgated pursuant to Title 26, Chapter 39.

R430-60-2. Purpose.

————— The purpose of this rule is to establish standards for the operation and maintenance of hourly care child care centers. It establishes minimum requirements for the health and safety of children in licensed programs. Hourly programs which would permit children to access the entire facility or area if the children are attended by parents, are exempt from the requirement to obtain a license.

R430-60-3. Definitions.

————— "Direct Supervision" means that the care giver can see and hear the children under age six, and is near enough to intervene when needed. Care givers must be able to hear school-age children and be near enough to intervene.

R430-60-4. License Required.

————— A person must obtain an hourly child care center license if he:

- (1) provides child care not in a personal residence;
- (2) provides care for five or more children for less than 24 hours a day, but not on a regular schedule; and
- (3) receives direct or indirect compensation.

R430-60-5. Administration and Organization.

————— (1) The licensee of the program shall exercise supervision over the affairs of the program and assure:

————— (a) compliance with federal, state, and local laws and for the overall organization, management, operation and control of the facility;

————— (b) establishment and implementation of policies and procedures for the health and safety of children in the center; and

————— (c) appointment of a qualified director who shall assume full responsibility for the day-to-day operation and management of the facility.

~~_____ (2) The director of the hourly care program shall have the following qualifications:~~

- ~~_____ (a) be at least 21 years of age;~~
- ~~_____ (b) have knowledge of applicable laws and rules;~~
- ~~_____ (c) except for directors of a program licensed before June 1, 1998, the director must have a high school diploma or GED equivalent; and:~~
 - ~~_____ (i) a bachelor's or associate's degree in Early Childhood Education or Child Development; or~~
 - ~~_____ (ii) a bachelor's degree in a related field with documented four courses of higher education completed in child development; or~~
 - ~~_____ (iii) a national or state certification such as Certified Childcare Professional, National Administrator Credential, Child Development Associate (CDA); or~~
 - ~~_____ (iv) two years experience in child care, elementary education, or a related field.~~

~~_____ (3) The director shall ensure that adequate direct supervision is maintained whenever the program is operating. The care giver to child ratios established in R430-60-9 are minimum requirements only. The director shall ensure that policies exist to adjust these ratios when the age and number of children require additional care givers to maintain adequate levels of supervision and care.~~

R430-60-6. Personnel.

~~_____ (1) The director shall ensure that each care giver and volunteer who has direct contact with or access to children are oriented to the licensed program and successfully completes the required orientation training before starting assigned duties. The completion of the orientation must be documented in the individual's personnel record. The orientation training must include:~~

- ~~_____ (a) procedures for maintaining health and safety, and handling emergencies and accidents;~~
- ~~_____ (b) specific job responsibilities;~~
- ~~_____ (c) child discipline procedures of R430-60-8;~~
- ~~_____ (d) reporting requirements for witnessing or suspicion of abuse, neglect and exploitation; and~~
- ~~_____ (e) releasing children to authorized individuals.~~

~~_____ (2) All care givers employed to meet the minimum care giver to child ratios who provide services shall be at least 18 years of age or have completed high school or a GED. In addition to the required staff ratios, an individual who is 16 years old, if he works under the direct supervision of a competent care giver who has completed the minimum of 10 hours in-service training, may provide childcare services.~~

~~_____ (3) There shall be at least one care giver on duty in the center during business hours who has a current course completion in basic child and infant first aid and Cardiac Pulmonary Resuscitation (CPR), and training in the Heimlich maneuver for treatment of an obstructed airway. First aid and CPR refers to courses given by the American Red Cross, the Utah Emergency Medical Training Council, or other courses that the licensee can demonstrate to the Department to be equivalent;~~

~~_____ (4) All care givers shall receive a minimum of 10 hours of documented in-service training annually. At least five hours of in-service training shall be in person from a person not affiliated with the license holder. The training shall include the following:~~

- ~~_____ (a) accident prevention and safety principles;~~
- ~~_____ (b) positive guidance for the management of children;~~
- ~~_____ (c) child development; and~~
- ~~_____ (d) age appropriate activities for children.~~
- ~~_____ (5) If childcare is provided to children under the age of two, the following in-service topics are required:~~
 - ~~_____ (a) Preventing Shaken Baby Syndrome;~~
 - ~~_____ (b) Coping with crying babies; and~~
 - ~~_____ (c) Preventing Sudden Infant Death Syndrome.~~
- ~~_____ (6) The licensee shall ensure that all care givers complete in-service training, and a record of the fact is made in the care giver's personnel record. The record must include the date training was completed, the topics covered, and trainer's name and organizational affiliation.~~

~~_____ (7) The director shall ensure that all care givers are screened for tuberculosis using the Mantoux tuberculin skin test method within two weeks of assuming care giver responsibilities. Tuberculin skin testing does not need to be repeated during the employment period unless the employee develops signs and symptoms of the disease, as determined by a health care professional.~~

~~_____ (a) All care givers with a skin test that indicate potential exposure to tuberculosis shall receive a medical evaluation for tuberculosis disease.~~

~~_____ (b) All care givers who have documentation of previous positive reaction to the Mantoux tuberculin skin test shall present documentation of completion of therapy for tuberculosis infection or evidence of a negative chest radiograph within the past 12 months.~~

~~_____ (c) Repeated chest radiographs are not required unless the care giver develops signs and symptoms of tuberculosis disease, as determined by a health care professional.~~

R430-60-7. Records.

~~_____ (1) The licensee shall ensure that the parent or legal guardian completes an admission agreement, which identifies the following:~~

- ~~_____ (a) child's full name and nickname;~~
- ~~_____ (b) parent's name and emergency numbers, if the parent will not be on-site;~~
- ~~_____ (c) attestation statement and health evaluation identifying:~~
 - ~~_____ (i) allergies and food sensitivities; and~~
 - ~~_____ (ii) medical conditions, including a certification that all immunizations are current; and~~
 - ~~_____ (d) name of the child's physician.~~

~~_____ (2) The facility shall maintain staff records to include:~~

- ~~_____ (a) Background screening records; and~~
- ~~_____ (b) In-service training records.~~

R430-60-8. Child Discipline.

~~_____ (1) The licensee shall inform all care givers, parents or guardians and children of expected conduct by setting clear and understandable rules.~~

~~_____ (2) Disciplinary measures shall be implemented so as to encourage the child's self-control to reduce risk of injury and any adverse health effects to self or others. Positive discipline measures include but are not limited to:~~

- ~~_____ (a) positive behavioral rewards;~~

- ~~_____ (b) other forms of positive guidance;~~
- ~~_____ (c) redirection; or~~
- ~~_____ (d) time out.~~
- ~~_____ (3) Discipline measures shall not include any of the following:~~
 - ~~_____ (a) corporal punishment, including hitting, shaking, biting, pinching, or spanking;~~
 - ~~_____ (b) restraining a child's movement by binding or tying;~~
 - ~~_____ (c) use of abusive, demeaning or profane language;~~
 - ~~_____ (d) forcing or withdrawing food, rest or bathroom opportunities; or~~
 - ~~_____ (e) confining a child in a locked closet, room, or similar area.~~

R430-60-9. Care Giver to Child Ratios.

~~_____ (1) The licensee must maintain minimum care giver to child ratios as provided in Table 1.~~

~~TABLE 1
Minimum Care giver to Child Ratios~~

Care giver	Children	Limits for Mixed Ages
1	12	No children under age 2
1	8	3 children under age 2
1	6	4 children under age 2

- ~~_____ (2) Regardless of the number of other children and the minimum ratios in Table 1, if only two care givers are present, the facility may not care for more than four children under the age of two.~~
- ~~_____ (3) For no more than 20 minutes, the minimum ratios in Table 1 may not exceed one care giver to 16 children if none of the children are younger than 24 months old, to allow for an additional care giver to arrive at the program.~~
- ~~_____ (4) An hourly program that exceeds the ratio in Table 1, must be able to document having care givers, who, as a condition of their employment, are on call to come to the program as needed and arrive at the program within 20 minutes after receiving notification to report.~~
- ~~_____ (5) Whenever the total number of children present to be cared for at a hourly program is more than 20, children younger than 24 months must be cared for in an area that is physically separated from older children. All children 24 months old and older may be cared for in the same group in the same area.~~
- ~~_____ (6) A child of an employee or owner age four or older will not be counted for determining care giver to child ratios.~~

R430-60-10. Medications.

- ~~_____ (1) If an hourly child care provider chooses to administer medications to a child then a trained, designated care giver shall administer medications.~~
- ~~_____ (2) Training for the administration of medications shall include the following:~~
 - ~~_____ (a) Oral over the counter and prescription medications must be in the original or pharmacy container;~~
 - ~~_____ (b) have the original label;~~
 - ~~_____ (c) include the child's name;~~
 - ~~_____ (d) have child proof caps; and~~
 - ~~_____ (e) have instructions for administration.~~

~~_____ (3) The parent or guardian must complete a medication release form for each child receiving medications at the facility that contains:~~

- ~~_____ (a) the name of the medication;~~
- ~~_____ (b) the dosage;~~
- ~~_____ (c) the route of administration;~~
- ~~_____ (d) the times and dates to be administered;~~
- ~~_____ (e) the illness or condition being treated; and~~
- ~~_____ (f) the parent or guardian signature.~~
- ~~_____ (4) Medication records shall be maintained that include:~~
 - ~~_____ (a) the times, dates, and dosages of the medications given;~~
 - ~~_____ (b) the signature or initials of the care giver who administered the medication; and~~
 - ~~_____ (c) documentation of any errors in administration or adverse reactions.~~

~~_____ (5) The director or designee shall report any adverse reaction to a medication or error in administration to the parent or legal guardian immediately upon recognizing the error or reaction.~~

- ~~_____ (6) Medications shall be secured from access to children.~~
- ~~_____ (7) Medications stored in refrigerators shall be in spill-proof packaging and shall be kept in a covered, leakproof storage container.~~

~~_____ (8) Unused medications shall be returned to the parent or guardian. Out-of-date medications shall be promptly discarded or returned to the parent or guardian to be destroyed.~~

R430-60-11. Parent Notification and Child Security.

~~_____ (1) The director shall establish a procedure for care givers to check who has written authorization to pick up children. Only parents or persons with written authorization from parents shall be allowed to take any child from the facility, except that verbal authorization may be used in emergency situations. The director shall ensure a sign in and sign out document for the past three months is maintained for Department review.~~

~~_____ (2) The director shall ensure that the parents or guardians are informed of all injuries and incidents that occur during the child's stay at the program. A written report shall be provided to the parents, and notification shall occur at the time that the injury or incident occurs if medical treatment is required. At the time of admission, the director shall obtain a signed permission form from the parent or legal guardian for emergency medical treatment.~~

~~_____ (3) For any emergency that requires a response by emergency medical treatment providers, fatality, or hospitalization of a child in care, the licensee shall:~~

- ~~_____ (a) notify the Department within 24 hours of occurrence, either by phone or facsimile; and~~
- ~~_____ (b) submit to the Department within five business days of occurrence a written injury and accident report.~~

~~_____ (4) The director shall develop a policy to address how long a child may cry before the parent is contacted.~~

R430-60-12. Activities.

~~_____ (1) The licensee shall have an array of activities and sufficient supplies at the center, which are appropriate for the age and development of the children accepted for care.~~

~~_____ (2) There shall be a minimum of 35 square feet per child of indoor play area for each child in care under age 14.~~

~~(3) If an outdoor play area is available, the area shall have at least 40 square feet for each child using the play area at any given time for each child in care under age 14.~~

~~(4) Outdoor play areas shall be fenced or have a natural barrier that provides protection from unsafe areas. Fences shall be at least four feet high. If local ordinances conflict, the director may request a variance from the Department. Any gaps within the fence shall not be greater than three and one-half inches. The bottom edges of fence shall not be more than three and one-half inches above the ground.~~

R430-60-13. Fire, Sanitation, and Safety.

~~(1) The licensee shall have a written emergency and disaster plan in case of fire, flood, earthquake, blizzard, power failure or other disasters that could create structural damage to the facility or pose a health hazard. The director shall hold simulated fire drills monthly and semi-annual disaster drills. The director shall document all drills, including date, participants, and problems encountered.~~

~~(a) The director shall post evacuation routes which indicate the location of fire alarm boxes and fire extinguishers in prominent locations throughout the center. Each center shall have approved fire extinguishers and be inspected by the local fire authority annually.~~

~~(b) The licensee shall ensure that the telephone service is in working order, unless there is a utility failure, and inform the Department of the current phone number.~~

~~(c) The names and telephone numbers of the emergency medical personnel, fire department, police, poison control and license holder shall be posted by the telephone.~~

~~(2) A person may not smoke or use tobacco in any child care facility during the period of time a child is present in the facility. All lighters and matches shall be inaccessible to children.~~

~~(3) The director of the facility shall establish written policies and monitor the care givers to ensure that the use and accessibility to tobacco, alcohol, illegal substances or sexually explicit materials are prohibited by any person anywhere on the premises during the hours of operation when children are in care.~~

~~(4) The toilet rooms of the hourly program must be cleaned and disinfected daily.~~

~~(5) If the program accepts a child in a diaper, then the diaper shall be changed only in a designated diaper changing area. The designated area shall:~~

~~(a) have diaper changing procedures posted;~~

~~(b) be separate from food storage, food preparation, and eating areas;~~

~~(c) have a hand sink equipped with soap, hot and cold running water within three feet of the diaper changing surface; and~~

~~(d) have a smooth nonabsorbent diaper changing surface, railing and a sanitary container for soiled and wet diapers.~~

~~(6) Care givers shall change a child's clothing when it is soiled with fecal material or urine and place the clothing into a leakproof container to be sent home with the parent or legal guardian. Clothing soiled with feces or urine shall not be rinsed at the facility.~~

~~(7) Hand washing policies shall be followed to assure protection from contamination and the spread of microorganisms. Hand washing procedures shall be posted at all hand washing sinks.~~

~~(a) Care givers shall wash and scrub their hands for 20 seconds with soap and warm running water at times specified in policy.~~

~~(b) Care givers shall teach children proper hand washing techniques and oversee hand washing whenever possible.~~

~~(c) Care givers and children shall wash their hands after using the toilet, before and after eating and before and after food preparation.~~

~~(8) The licensee shall provide the following supplies and make them accessible to children: toilet paper, liquid hand soap, facial tissues, and single use paper towels or warm air hand dryers.~~

~~(9) The director shall keep and maintain a first aid kit and a portable blood and bodily fluid clean-up kit. All care givers shall know the location of and how to use the kits.~~

~~(10) Equipment and furniture must be durable, in good repair, structurally sound, and stable following assembly and installation.~~

~~(a) Equipment must be free of sharp edges, dangerous protrusions, openings where a child's extremities could be pinched or crushed, and openings or angles that could trap part of a child's body.~~

~~(b) Tables, chairs, and other furniture must be appropriate to the age and size of children who use them. High chairs must have safety straps.~~

~~(c) Toys and equipment that are likely to be mouthed by infants and toddlers must be made of a material that can be disinfected. These must be cleaned and disinfected when mouthed or soiled and at least daily.~~

~~(d) Sharp objects, medicines, plastic bags, and poisonous plants and chemicals, including household supplies, must be stored out of reach of children.~~

~~(e) Electrical outlets accessible to children four years of age and younger shall be protected or capped with safety devices.~~

~~(f) All pieces of outdoor playground equipment shall be surrounded by a resilient surface of loose cushioning, at least nine inches in depth, or mats manufactured for such use, consistent with the guidelines of the Consumer Product Safety Commission and the standards of the American Society for Testing and Materials. All indoor playground equipment, for example slides and climbers, shall be surrounded by cushioning materials, such as mats, in a six foot fall zone. Indoor play equipment shall not exceed three feet at the highest point.~~

~~(g) The areas used by children must be free from debris, loose flaking, peeling, or chipped paint, loose wallpaper, or crumbling plaster, litter, and holes in the walls, floors and ceilings. Rugs must have a non-skid backing or be firmly fastened to the floor and be free from tears, curled, or frayed edges, and hazardous wrinkles.~~

~~(h) Infant walkers with wheels are not permitted in hourly childcare programs.~~

~~(11) Hot water accessible to children shall not exceed the scalding standard of 120 degrees Fahrenheit.~~

~~(12) The licensee shall take effective and safe measures to prevent, control, and eliminate the presence of insects, rodents, and other vermin on the premises.~~

~~(13) There shall be adequate housekeeping services to maintain a clean and sanitary environment.~~

~~(14) Entrances, exits, steps, and outside walkways shall be maintained in a safe condition, free of ice, snow and other hazards.~~

~~(15) The center shall maintain air temperatures between 72 degrees Fahrenheit and 85 degrees Fahrenheit as measured 30 inches above the floor. Infant care areas shall maintain temperatures of at least 70 degrees Fahrenheit at floor level.~~

~~(16) If sleeping equipment or mats are provided for rest time, all mats and sleeping equipment shall be cleaned and sanitized weekly, and prior to use by another child.~~

~~(17) There shall be at least one toilet and lavatory for each 15 children. Care givers shall directly supervise children when using bathrooms that are available to the general public.~~

~~(18) There shall be no firearms or other weapons accessible to children. Firearms and other weapons shall be stored separately from ammunition and all shall be in a locked cabinet or area during times when children are on the premises, unless the use is in accordance with UCA 53-5-701 Concealed Weapons Act, UCA 76-10-523 Persons Exempt from Weapons Laws or as otherwise authorized by law.~~

R430-60-14. Animals:

~~(1) If the facility permits animals in the facility:~~

~~(a) the animals shall be clean and in good health;~~

~~(b) the animals shall be confined in enclosures, hand held, under leash control, or under voice control;~~

~~(c) the animals shall have current vaccination records available at the facility for all diseases transmissible to humans;~~

~~(d) the animals shall have no history of dangerous or aggressive behavior; and~~

~~(e) the animals shall be excluded from food preparation, storage or dining areas.~~

~~(2) Children shall not assist with the cleaning of animals, animal cages, pens or animal equipment.~~

~~(3) The director shall inform the parent or legal guardian of any known allergic or immune suppressed child of the types of animals kept at the facility.~~

~~(4) Children shall not be permitted to handle reptiles, including turtles and lizards.~~

R430-60-15. Food Service:

~~(1) If food service is provided, the center's food service shall comply with the Utah Department of Health Food Service Sanitation Regulations, R392-100, and with the local health department food service regulations.~~

~~(2) If the local health department completes an inspection, the most recent inspection report shall be maintained at the center for review by the Department.~~

~~(3) All food served in the center by care givers for the children in care shall be from an approved source as provided in R392-100.~~

~~(a) Food brought in by parents for service to other children must be from an approved source or commercially prepared;~~

~~(b) Food brought in by parents for individual child use must be labeled with the child's name.~~

~~(4) All care givers who prepare or serve food and snacks must have a food handler's permit.~~

~~(5) Children's food shall be served on plates, napkins or other sanitary holders, which includes a high chair tray. Multiple-use sanitary holders shall be washed, rinsed, and sanitized with a sanitizer approved in R392-100 for food contact surfaces prior to each use. Food shall not be placed on a bare table or other eating surface.~~

~~(6) If a food service is provided, care givers shall serve meals and snacks according to the center policy, but at least once every three hours.~~

~~(7) Children and infants shall be served special diets, formula, breast milk, or food supplements in accordance with the written instructions from a parent or legal guardian.~~

~~(8) Baby food must be refrigerated after opening, marked with the date and time and discarded if not consumed within 24 hours.~~

~~(9) Infant formula and breast milk shall be discarded after feeding or within two hours of initiating a feeding.~~

~~(10) If an infant is unable to sit upright and hold his own bottle, a care giver shall hold the infant during bottle feeding.~~

R430-60-16. Penalty:

~~The Department may impose civil monetary penalties in accordance with Title 63, Chapter 46b, Administrative Procedures Act and Section 26-39-108, if there has been a failure to comply with the provisions of this chapter, or rules promulgated pursuant to this chapter, as follows:~~

~~(1) if significant problems exist that are likely to lead to the harm of a child, the department may impose a civil money penalty of \$50 to \$1,000 per day; and~~

~~(2) if significant problems exist that result in actual harm to a child, the department may impose a civil money penalty of \$1,050 to \$5,000 per day.]~~

R430-60. Hourly Child Care Centers.

R430-60-1. Authority and Purpose.

This rule is promulgated pursuant to Title 26, Chapter 39. It establishes standards for the operation and maintenance of hourly child care centers and requirements to protect the health and safety of children in child care centers.

R430-60-2. Definitions.

(1) "Accredited College" means a college accredited by an agency recognized by the United States Department of Education as a valid accrediting agency.

(2) "ASTM" means American Society for Testing and Materials.

(3) "Body fluids" means blood, urine, feces, vomit, mucous, and saliva.

(4) "Caregiver" means an employee or volunteer who provides direct care to children.

(5) "CPSC" means the Consumer Product Safety Commission.

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

(7) "Designated Play Surface" means a flat surface on a piece of stationary play equipment that a child could stand, walk, sit, or climb on, and is at least 2" by 2" in size.

(8) "Direct Supervision" for infants, toddlers, and preschoolers means the caregiver can see and hear all of the children in his or her assigned group, and is near enough to

intervene when necessary. "Direct Supervision" for school age children means the caregiver must be able to hear school age children and must be near enough to intervene when necessary.

(9) "Emotional Abuse" means behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning a child, constant criticism, rejection, profane language, and inappropriate physical restraint.

(10) "Group" means the children assigned to one or two caregivers, occupying an individual classroom or an area defined by furniture or another partition within a room.

(11) "Health Care Provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

(12) "Inaccessible to Children" means either locked, such as in a locked room, cupboard or drawer, or with a child safety lock, or in a location that a child can not get to.

(13) "Infant" means a child aged birth through 11 months of age.

(14) "Infectious Disease" means an illness that is capable of being spread from one person to another.

(15) "Licensee" means the legally responsible person or persons holding a valid Department of Health child care license.

(16) "Over-the-Counter Medication" means medication that can be purchased without a written prescription from a health care provider. This includes herbal remedies and vitamin or mineral supplements.

(17) "Parent" means the parent or legal guardian of a child in care.

(18) "Person" means an individual or a business entity.

(19) "Physical Abuse" means causing nonaccidental physical harm to a child.

(20) "Preschooler" means a child aged 2 through 4, and 5 year olds who have not yet started kindergarten.

(21) "Protective cushioning" means cushioning material that has been tested to and meets American Society for Testing and Materials (ASTM) Specification F 1292, such as unitary surfaces, wood chips, engineered wood fiber, and shredded rubber mulch. Protective cushioning may also include pea gravel or sand as allowed by the Consumer Product Safety Commission (CPSC).

(22) "Provider" means the licensee or a staff member to whom the licensee has delegated a duty under this rule.

(23) "Sanitize" means to remove soil and small amounts of certain bacteria from a surface or object with a chemical agent.

(24) "School Age" means kindergarten and older age children.

(25) "Sexual Abuse" means abuse as defined in Utah Code, Section 76-5-404.1.(1)(2).

(26) "Sexually Explicit Material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5a-2(8).

(27) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, or play pen.

(28) "Stationary Play Equipment" means equipment such as a climber, a slide, a swing, a merry-go-round, or a spring rocker that is meant to stay in one location when children use it. Stationary play equipment does not include:

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

(d) a playhouse, if the playhouse has no play equipment, such as a slide, swing, ladder, or climber attached to it.

(29) "Toddler" means a child aged 12 months but less than 24 months.

(30) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

(31) "Volunteer" means a person who provides care to a child but does not receive direct or indirect compensation for doing so.

R430-60-3. License Required.

(1) A person must be licensed as an hourly child care center if he or she:

(a) provides care in the absence of the child's parent;

(b) provides care in a place other than the provider's home or the child's home;

(c) provides care for five or more children for four or more hours per day, but not on a regular schedule;

(d) provides care for each individual child for less than 24 hours per day;

(e) provides care that is open to children on an ongoing basis for four or more weeks in a year; and

(f) provides care for direct or indirect compensation.

(2) If five or more children attend the center for four or more hours a day on a regularly scheduled ongoing basis, the center must be licensed under R430-100.

R430-60-4. Facility.

(1) The licensee shall ensure that any building or playground structure constructed prior to 1978 which has peeling, flaking, chalking, or failing paint is tested for lead based paint. If lead based paint is found, the licensee shall contact the local health department and follow all required procedures for the removal of the lead based paint.

(2) For preschool and younger children, there shall be one working toilet and one working sink for every fifteen children in the center, excluding diapered children. For school age children, there shall be one working toilet and one working sink for every 25 children in the center.

(3) School age children shall have privacy when using the bathroom.

(4) All rooms and occupied areas in the building shall be ventilated by windows that open and have screens or by mechanical ventilation.

(5) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

(6) The provider shall maintain adequate light intensity for the safety of children and the type of activity being conducted by keeping lighting equipment in good working condition.

(7) There shall be at least 35 square feet of indoor space for each child, including the licensee's and employees' children who are not counted in the caregiver to child ratios.

(8) Indoor space per child may include floor space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used:

(a) by children;

- _____ (b) for the care of children; or
- _____ (c) to store classroom materials.
- _____ (9) Bathrooms, closets, staff lockers, hallways, corridors, lobbies, kitchens, or staff offices are not included when calculating indoor space for children's use.

R430-60-5. Cleaning and Maintenance.

- _____ (1) The provider shall maintain a clean and sanitary environment.
- _____ (2) The provider shall clean and sanitize bathroom surfaces daily, including toilets, sinks, faucets, and counters.
- _____ (3) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other vermin.
- _____ (4) The provider shall maintain ceilings, walls, floor coverings, draperies, blinds, furniture, fixtures, and equipment in good repair to prevent injury to children.
- _____ (5) The provider shall maintain entrances, exits, steps and outside walkways in a safe condition, and free of ice, snow, and other hazards.

R430-60-6. Outdoor Environment.

_____ If the center has an outdoor play area used by children in care, the following rules apply:

- _____ (1) The outdoor play area shall be safely accessible to children.
- _____ (2) The outdoor play area shall have at least 40 square feet of space for each child using the playground at the same time as other children.
- _____ (3) The outdoor play area shall be enclosed within a 4 foot high fence or wall, or a solid natural barrier that is at least 4 feet high. When children play outdoors, they must play in the enclosed play area except during off-site activities described in Section R430-60-20(2).
- _____ (4) There shall be no gaps in fences greater than 5 inches at any point, nor shall gaps between the bottom of the fence and the ground be more than 5 inches.
- _____ (5) There shall be no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter anywhere in the outdoor play area where children's feet cannot touch the ground.
- _____ (6) When in use, the outdoor play area shall be free of animal excrement, harmful plants, objects, or substances, and standing water.
- _____ (7) The outdoor play area shall have a shaded area to protect children from excessive sun and heat.
- _____ (8) An outdoor source of drinking water, such as a drinking fountain, individually labeled water bottles, or a pitcher of water and individual cups that are taken outside, shall be available to children whenever the outside temperature is 75 degrees or higher.
- _____ (9) All outdoor play equipment and areas shall comply with the following safety standards:
 - _____ (a) All stationary play equipment used by infants and toddlers shall meet the following requirements:
 - _____ (i) There shall be no designated play surface that exceeds 3 feet in height.
 - _____ (ii) If the height of a designated play surface or climbing bar on a piece of equipment is greater than 18 inches, it shall have

use zones that extend a minimum of 3 feet in all directions from the perimeter of each piece of equipment.

- _____ (b) All stationary play equipment used by preschoolers or school age children shall meet the following requirements for use zones:
 - _____ (i) If the height of a designated play surface or climbing bar on a piece of equipment is greater than 20 inches, it shall have use zones that extend a minimum of 6 feet in all directions from the perimeter of each piece of equipment.
 - _____ (c) Two-year-olds may play on infant and toddler play equipment.
 - _____ (d) Protective cushioning is required in all use zones.
 - _____ (e) If loose material is used as protective cushioning, the depth of the material shall be at least 9 inches. The provider shall ensure that the material is periodically checked for compaction, and if compacted, shall loosen the material. If the material cannot be loosened due to extreme weather conditions, the provider shall not allow children to play on the equipment until the material can be loosened to the required depth.
 - _____ (f) If a unitary cushioning material, such as rubber mats or poured rubber-like material is used as protective cushioning:
 - _____ (i) the licensee shall ensure that the material meets the standard established in ASTM Specification F 1292. The provider shall maintain documentation from the manufacturer that the material meets these specifications.
 - _____ (ii) the licensee shall ensure that the cushioning material is securely installed, so that it cannot become displaced when children jump, run, walk, land, or move on it, or be moved by children picking it up.
 - _____ (g) Stationary play equipment that has a designated play surface less than the height specified in Table 1, and that does not have moving parts children sit or stand on, may be placed on grass, but shall not be placed on concrete, asphalt, dirt, or any other hard surface.

TABLE 1
Heights of Designated Play Surfaces That May Be Placed on Grass

Infants and Toddlers	Preschoolers	School Age
Less than 18"	Less than 20"	Less than 30"

- _____ (10) There shall be no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on any piece of stationary play equipment, or within or adjacent to the use zone of any piece of stationary play equipment.
- _____ (11) There shall be no strangulation hazards on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.
- _____ (12) There shall be no crush, shearing, or sharp edge hazards on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.
- _____ (13) There shall be no tripping hazards, such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.
- _____ (14) The provider shall maintain playgrounds and playground equipment to protect children's safety.

R430-60-7. Personnel.

- _____ (1) The center must have a director who is at least 21 years of age and who has one of the following:

(a) an associates, bachelors, or graduate degree in child development, early childhood education, elementary education, or recreation from an accredited college;

(b) a college degree in a related field with documented four courses of higher education completed in child development;

(c) valid proof of a level 8, 9, or 10 Utah Early Childhood Career Ladder certification issued by the Utah Office of Child Care or the Utah Child Care Professional Development Institute;

(d) a currently valid national certification such as a Certified Childcare Professional (CCP) issued by the National Child Care Association, a Child Development Associate (CDA) issued by the Council for Early Childhood Professional Recognition, or other credential that the licensee demonstrates as equivalent to the Department; or

(e) a currently valid National Administrator Credential (NAC) issued by the National Child Care Association, plus one of the following:

(i) valid proof of successful completion of 12 semester credit hours of early childhood development courses from an accredited college; or

(ii) valid proof of completion of the following six Utah Early Childhood Career Ladder courses offered through Child Care Resource and Referral: Child Development Ages and Stages, Learning in the Early Years, A Great Place for Kids, Strong and Smart, Learning to Get Along, and Advanced Child Development.

(f) two years experience in child care, elementary education, or a related field.

(2) All caregivers included in the required caregiver to child ratios shall be at least 18 years of age.

(3) A volunteer may be included in the provider to child ratio only if the volunteer meets all of the caregiver requirements of this rule.

(4) Each new director, assistant director, caregiver, assistant caregiver, and volunteer shall receive orientation training prior to assuming caregiving duties. Orientation training shall be documented in the caregiver's file and shall include the following topics:

(a) specific job responsibilities;

(b) the center's emergency and disaster plan;

(c) the current child care licensing rules found in Sections R430-60-11 through 24;

(d) procedure for releasing children to authorized individuals only;

(e) proper clean up of body fluids;

(f) signs and symptoms of child abuse and neglect, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;

(g) obtaining assistance in emergencies, as specified in the center's emergency and disaster plan.

(h) If the center provides infant or toddler care, new caregiver orientation training topics shall also include:

(i) preventing shaken baby syndrome and coping with crying babies; and

(ii) preventing sudden infant death syndrome.

(5) The following individuals shall complete a minimum of 10 hours of child care training each year, based on the center's license date:

(a) the director;

(b) all caregivers;

(c) all substitutes who work an average of 10 hours a week or more, as averaged over any three month period; and

(d) all volunteers that the provider includes in the provider to child ratio.

(6) Documentation of annual training shall be kept in each caregiver's file, and shall include the name of the training organization, the date, the training topic, and the total hours or minutes of training.

(7) Caregivers who begin employment partway through the license year shall complete a proportionate number of training hours based on the number of months worked prior to the center's relicensure date.

(8) Annual training hours shall include the following topics:

(a) the current child care licensing rules found in Sections R430-60-11 through 24;

(b) a review of the center's policies and procedures and emergency and disaster plans, including any updates;

(c) signs and symptoms of child abuse and neglect, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;

(d) principles of child growth and development, including development of the brain; and

(e) positive guidance.

(9) If the center provides infant or toddler care, annual training topics for the center director and all infant and toddler caregivers shall also include:

(a) preventing shaken baby syndrome and coping with crying babies; and

(b) preventing sudden infant death syndrome.

(10) A minimum of 5 hours of the required annual in-service training shall be face-to-face instruction.

R430-60-8. Administration.

(1) The licensee is responsible for all aspects of the operation and management of the center.

(2) The licensee shall comply with all federal, state, and local laws and rules pertaining to the operation of a child care center.

(3) The provider shall not engage in or allow conduct that is adverse to the public health, morals, welfare, and safety of the children in care.

(4) The provider shall take all reasonable measures to protect the safety of children in care. The licensee shall not engage in activity or allow conduct that unreasonably endangers children in care.

(5) Either the center director or a designee with authority to act on behalf of the center director shall be present at the facility whenever the center is open for care.

(6) Director designees shall be at least 21 years of age, and shall have completed their orientation training.

(7) There shall be a working telephone at the facility, and the center director shall inform the Department of any changes to the center's telephone number within 48 hours of the change.

(8) The provider shall call the Department within 24 hours to report any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless an emergency medical transport was part of a child's medical treatment plan identified by the parent. The provider

shall also mail or fax a written report to the Department within five days of the incident.

(9) The center director shall train and supervise all staff to:

(a) ensure their compliance with this rule;
(b) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.

(10) The provider shall establish and follow written policies and procedures for the health and safety of the children in care. The written policies and procedures shall address at least the following areas:

(a) direct supervision and protection of children at all times, including when they are sleeping, using the bathroom, in a mixed group activity, on the playground, and during off-site activities;

(b) maintaining required caregiver to child ratios when the center has more than the expected number of children, or fewer than the scheduled number of caregivers;

(c) procedures to account for each child's attendance and whereabouts;

(d) procedures to ensure that the center releases children to authorized individuals only;

(e) confidentiality and release of information;

(f) the use of movies and video or computer games, including what industry ratings the center allows;

(g) recognizing early signs of illness and determining when there is a need for exclusion from the center;

(h) discipline of children, including behavioral expectations of children and discipline methods used; and

(i) how long a child will cry before the parent is contacted.

(11) The provider shall ensure that the written policies and procedures are available for review by staff and the Department during business hours.

R430-60-9. Records.

(1) The provider shall maintain the following general records on-site for review by the Department:

(a) documentation of the previous 12 months of fire and disaster drills as specified in R430-60-10(9) and (11);

(b) current animal vaccination records as required in R430-60-22(2);

(c) a six week record of child attendance, including sign-in and sign-out records;

(d) a current local health department inspection;

(e) a current local fire department inspection;

(f) if the licensee has been licensed for one year or longer, the most recent "Request for Annual Renewal of CBS/LIS Criminal History Information for Child Care" listing the licensee and all current providers, caregivers, volunteers, directors, owners, and members of the governing body; and

(g) if the licensee has been licensed for one year or longer, the most recent criminal background "Disclosure and Consent Statement" listing the licensee and all current providers, caregivers, volunteers, directors, owners, and members of the governing body.

(2) The provider shall maintain the following records for each currently enrolled child on-site for review by the Department:

(a) an admission form containing the following information for each child:

(i) name;

(ii) date of birth;

(iii) the parent's name, address, and phone number, including a daytime phone number;

(iv) the names of people authorized by the parent to pick up the child;

(v) the name, address and phone number of a person to be contacted in the event of an emergency if the provider is unable to contact the parent; and

(vi) medical conditions, including a certification that all immunizations are current.

(b) a transportation permission form, if the center provides transportation services;

(c) a six week record of medication permission forms, and a six week record of medications actually administered; and

(d) a six week record of incident, accident, and injury reports.

(3) The provider shall ensure that information in children's files is not released without written parental permission.

(4) The provider shall maintain the following records for each staff member on-site for review by the Department:

(a) date of initial employment;

(b) approved initial CBS/LIS Consent and Release of Liability for Child Care" form;

(c) a six week record of days worked, and the times worked each day;

(d) orientation training documentation for caregivers, and for volunteers who work at the center at least once each month;

(e) annual training documentation for all providers and substitutes who work an average of 10 hours or more a week, as averaged over any three month period; and

(f) current first aid and CPR certification, if applicable as required in R430-60-10(2), R430-60-20(2)(c), and R430-60-21(2).

R430-60-10. Emergency Preparedness.

(1) The provider shall post the center's street address and emergency numbers, including ambulance, fire, police, and poison control, near each telephone in the center.

(2) At least one person at the facility at all times when children are in care shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification. Equivalent CPR certification must include hands-on testing.

(3) The licensee shall maintain first-aid supplies in the center, including at least antiseptic, band-aids, and tweezers.

(4) The provider shall have a written emergency and disaster plan which shall include at least the following:

(a) procedures for responding to medical emergencies and serious injuries that require treatment by a health care provider;

(b) procedures for responding to fire, earthquake, flood, power failure, and water failure;

(c) the location of and procedure for emergency shut off of gas, electricity, and water;

(d) an emergency relocation site where children may be housed if the center is uninhabitable;

(e) a means of posting the relocation site address in a conspicuous location that can be seen even if the center is closed;

(f) the transportation route and means of getting staff and children to the emergency relocation site;

(g) a means of accounting for each child's presence in route to and at the relocation site;

(h) a means of accessing children's emergency contact information and emergency releases;

(i) provisions for emergency supplies, including at least food, water, a first aid kit, diapers if the center cares for diapered children, and a cell phone;

(j) procedures for ensuring adequate supervision of children during emergency situations, including while at the center's emergency relocation site; and

(k) staff assignments for specific tasks during an emergency.

(5) The provider shall ensure that the emergency and disaster plan is followed in the event of an emergency.

(6) The provider shall review the emergency and disaster plan annually, and update it as needed. The provider shall note the date of reviews and updates to the plan on the plan.

(7) The emergency and disaster plan shall be available for immediate review by staff and the Department during business hours.

(8) The provider shall conduct fire evacuation drills monthly. Drills shall include complete exit of all children and staff from the building.

(9) The provider shall document all fire drills, including:

(a) the date and time of the drill;

(b) the number of children participating;

(c) the name of the person supervising the drill;

(d) the total time to complete the evacuation; and

(e) any problems encountered.

(10) The provider shall conduct drills for disasters other than fires at least once every six months.

(11) The provider shall document all disaster drills, including:

(a) the type of disaster, such as earthquake, flood, prolonged power outage, tornado;

(b) the date and time of the drill;

(c) the number of children participating;

(d) the name of the person supervising the drill; and

(e) any problems encountered.

(12) The center shall vary the days and times on which fire and other disaster drills are held.

R430-60-11. Supervision and Ratios.

(1) The provider shall ensure that caregivers provide and maintain direct supervision of all children at all times.

(2) Caregivers shall actively supervise children on the playground to minimize the risk of injury to a child.

(3) The licensee must maintain minimum care giver to child ratios as provided in Table 2.

TABLE 2

Caregiver to Child Ratios

Caregivers	Children	Limits for Mixed Ages
1	12	No children under age 2
1	8	2 children under age 2
1	6	3 children under age 2

(4) Regardless of the number of other children and the minimum ratios in Table 2, if only two care givers are present, the facility may not care for more than four children under the age of two.

(5) For no more than 20 minutes, the minimum ratios in Table 2 may not exceed one care giver to 16 children if none of the children are younger than 24 months old, to allow for an additional care giver to arrive at the program.

(6) An hourly program that exceeds the ratio in Table 2, must be able to document having care givers, who, as a condition of their employment, are on call to come to the program as needed and arrive at the program within 20 minutes after receiving notification to report.

(7) Whenever the total number of children present to be cared for at a hourly program is more than 20, children younger than 24 months must be cared for in an area that is physically separated from older children. All children 24 months old and older may be cared for in the same group in the same area.

(8) The children of the licensee or any employee, age four or older, are not counted in the caregiver to child ratios when the parent of the child is working at the center.

R430-60-12. Injury Prevention.

(1) The provider shall ensure that the building, grounds, toys, and equipment are maintained and used in a safe manner to prevent injury to children.

(2) Areas accessible to children shall be free of unstable heavy equipment, furniture, or other items that children could pull down on themselves.

(3) The following items shall be inaccessible to children:

(a) firearms, ammunition, and other weapons on the premises. Firearms shall be stored separately from ammunition, in a cabinet or area that is locked with a key or combination lock, unless the use is in accordance with the Utah Concealed Weapons Act, or as otherwise allowed by law;

(b) tobacco, alcohol, illegal substances, and sexually explicit material;

(c) when in use, portable space heaters, fireplaces, and wood burning stoves;

(d) toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable materials;

(e) poisonous plants;

(f) matches or cigarette lighters;

(g) open flames;

(h) sharp objects, edges, corners, or points which could cut or puncture skin;

(i) for children age 4 and under, ropes, cords, and chains long enough to encircle a child's neck, such as those found on window blinds or drapery cords;

(j) for children age 4 and under, plastic bags large enough for a child's head to fit inside, latex gloves, and balloons; and

(k) for children age 2 and under, toys or other items with a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches, or objects with removable parts that have a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches.

(4) The provider shall store all toxic or hazardous chemicals in a container labeled with its contents.

(5) Electrical outlets and surge protectors accessible to children age four and younger shall have protective caps or safety devices when not in use.

(6) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.

(7) High chairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.

(8) Indoor stationary gross motor play equipment, such as slides and climbers, accessible to children under age 3 shall not have a designated play surface that exceeds 3 feet in height.

(a) If such equipment has an elevated designated play surface less than 18 inches in height, it shall not be placed on a hard surface, such as wood, tile, linoleum, or concrete, and shall have a three foot use zone.

(b) If such equipment has an elevated designated play surface that is 18 inches to 3 feet in height, it shall be surrounded by mats at least 2 inches thick, or cushioning that meets ASTM Standard F1292, in a three foot use zone.

(9) Indoor stationary gross motor play equipment, such as slides and climbers, accessible to children age 3 and older shall not have a designated play surface that exceeds 5-1/2 feet in height.

(a) If such equipment has an elevated designated play surface less than 3 feet in height, it shall be surrounded by protective cushioning material, such as mats at least 1 inch thick, in a six foot use zone.

(b) If such equipment has an elevated designated play surface that is 3 feet to 5-1/2 feet in height, it shall be surrounded by cushioning that meets ASTM Standard F1292, in a six foot use zone.

(10) There shall be no trampolines on the premises that are accessible to any child in care.

(11) If there is a swimming pool on the premises that is not emptied after each use:

(a) the provider shall ensure that the pool is enclosed within a fence or other solid barrier at least six feet high that is kept locked whenever the pool is not in use;

(b) the provider shall maintain the pool in a safe manner;

(c) the provider shall meet all applicable state and local laws and ordinances related to the operation of a swimming pool; and

(d) If the pool is over four feet deep, there shall be a Red Cross certified life guard on duty, or a lifeguard certified by another agency that the licensee can demonstrate to the Department to be equivalent to Red Cross certification, any time children have access to the pool.

(12) If wading pools are used:

(a) a caregiver must be at the pool supervising children whenever there is water in the pool;

(b) diapered children must wear swim diapers and rubber pants while in the pool; and

(c) the pool shall be emptied and sanitized after each use by a separate group of children.

R430-60-13. Parent Notification and Child Security.

(1) The provider shall post a copy of the Department's child care guide in the center for parents' review during business hours.

(2) Parents shall have access to the center and their child's classroom at all times their child is in care.

(3) The provider shall ensure the following procedures are followed when children arrive at the center or leave the center:

(a) Each child must be signed in and out of the center by the person dropping the child off and picking the child up, including the date and time the child arrives or leaves.

(b) Persons signing children into the center shall use identifiers, such as a signature, initials, or electronic code.

(c) Persons signing children out of the center shall use identifiers, such as a signature, initials, or electronic code, and shall have photo identification if they are unknown to the provider.

(d) Only parents or persons with written authorization from the parent may take any child from the center. In an emergency, the provider may accept verbal authorization if the provider can confirm the identity of the person giving the verbal authorization and the identity of the person picking up the child.

(e) School age children may sign themselves in and out of the program with written permission from their parent.

(4) The provider shall give parents a written report of every incident, accident, or injury involving their child on the day of occurrence. The caregivers involved, the center director, and the person picking the child up shall sign the report on the day of occurrence. If a school age child signs him or herself out of the program, a copy of the report shall be mailed to the parent, or given to the parent the next day the child attends the program.

(5) If a child is injured and the injury appears serious but not life threatening, the provider shall contact the parent immediately, in addition to giving the parent a written report of the injury.

(6) In the case of a life threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb, the provider shall contact emergency personnel immediately, before contacting the parent. If the parent cannot be reached after emergency personnel have been contacted, the provider shall attempt to contact the child's emergency contact person.

R430-60-14. Child Health.

(1) The licensee shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.

(2) All staff shall follow the reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation found in Utah Code, Section 62A-4a-403 and 62A-4a-411.

(3) The use of tobacco, alcohol, illegal substances, or sexually explicit material on the premises or in center vehicles is prohibited any time that children are in care.

R430-60-15. Child Nutrition.

(1) If food service is provided:

(a) The provider shall ensure that the center's meal service complies with local health department food service regulations.

(b) The provider shall offer meals or snacks at least once every three hours that a child is in care.

(c) The provider shall serve children's food on dishes, napkins, or sanitary high chair trays, except for individual serving size items, such as crackers, if they are placed directly in the children's hands. The provider shall not place food on a bare table.

(2) If the parent of a child in care has informed the provider that his or her child has a food allergy or sensitivity, the provider shall ensure that the child is not given that food or drink.

(3) The provider shall ensure that food and drink brought in by parents for an individual child's use is labeled with the child's name, and refrigerated if needed. The provider shall ensure that a child in care does not consume a food or beverages that was brought in for another child.

R430-60-16. Infection Control.

(1) Staff shall wash their hands thoroughly with liquid soap and warm running water at the following times:

- (a) before handling or preparing food or bottles;
- (b) before and after eating meals and snacks or feeding children;

- (c) before and after diapering a child;
- (d) after using the toilet or helping a child use the toilet;
- (e) before administering medication;
- (f) after coming into contact with body fluids;
- (g) after playing with or handling animals;
- (h) when coming in from outdoors; and
- (h) after cleaning or taking out garbage.

(2) The provider shall ensure that children wash their hands thoroughly with liquid soap and warm running water at the following times:

- (a) before and after eating meals and snacks;
- (b) after using the toilet;
- (c) after coming into contact with body fluids;
- (d) after playing with animals; and
- (e) when coming in from outdoors.

(3) Only single use towels from a covered dispenser or an electric hand-drying device may be used to dry hands.

(4) The provider shall ensure that toilet paper is accessible to children, and that it is kept on a dispenser.

(5) The provider shall clean and sanitize all washable toys and materials weekly, or more often if necessary.

(6) Stuffed animals, cloth dolls, and dress-up clothes must be machine washable. Pillows must be machine washable, or have removable covers that are machine washable. The provider shall wash stuffed animals, cloth dolls, dress-up clothes, and pillows or covers weekly.

(7) If water play tables or tubs are used, they shall be washed and sanitized daily, and children shall wash their hands prior to engaging in the activity.

(8) Persons with contagious TB shall not work or volunteer in the center.

(9) Children's clothing which is wet or soiled from body fluids:

- (a) shall not be rinsed or washed at the center; and
- (b) shall be placed in a leakproof container, labeled with the child's name, and returned to the parent.

(10) If the center uses a potty chair, the provider shall clean and sanitize the chair after each use.

(11) The center shall have a portable body fluid clean up kit.

(a) All staff shall know the location of the kit and how to use it.

(b) The provider shall use the kit to clean up spills of body fluids.

(c) The provider shall restock the kit as needed.

(12) The provider shall notify the local health department, on the day of discovery, of any reportable infectious

diseases among children or caregivers, or any sudden or extraordinary occurrence of a serious or unusual illness, as required by the local health department.

(13) The provider shall post a parent notice at the center when any staff or child has an infectious disease or parasite.

(a) The provider shall post the notice in a conspicuous location where it can be seen by all parents.

(b) The provider shall post and date the notice the same day the disease or parasite is discovered, and the notice shall remain posted for at least 5 days.

R430-60-17. Medications.

(1) If medications are given, they shall be administered to children only by a provider trained in the administration of medications as specified in subsections (7) and (8) below.

(2) All over-the-counter and prescription medications shall:

- (a) be labeled with the child's full name;
- (b) be kept in the original or pharmacy container;
- (c) have the original label; and
- (d) have child-safety caps.

(3) All non-refrigerated medications shall be inaccessible to children and stored in a container or area that is locked, such as a locked room, cupboard, drawer, or a lockbox. The provider shall store all refrigerated medications in a leakproof container.

(4) The provider shall have a written medication permission form completed and signed by the parent prior to administering any over-the-counter or prescription medication to a child. The permission form must include:

- (a) the child's name;
- (b) the name of the medication;
- (c) written instructions for administration; including:
 - (i) the dosage;
 - (ii) the method of administration;
 - (iii) the times and dates to be administered; and
 - (iv) the disease or condition being treated; and
- (d) the parent signature and the date signed.

(5) If the provider keeps over-the-counter medication at the center that is not brought in by a parent for their child's use, the medication shall not be administered to any child without prior parental consent for each instance it is given. The consent must be either:

- (a) prior written consent; or
- (b) oral consent for which a provider documents in writing the date and time of the consent, and which the parent or person picking up the child signs upon picking up the child.

(6) If the provider chooses not to administer medication as instructed by the parent, the provider shall notify the parent of their refusal to administer the medication prior to the time the medication needs to be given.

(7) When administering medication, the provider administering the medication shall:

- (a) wash their hands;
- (b) check the medication label to confirm the child's name;

(c) compare the instructions on the parent release form with the directions on the prescription label or product package to ensure that a child is not given a dosage larger than that recommended by the health care provider or the manufacturer;

- (d) administer the medication; and
- (e) immediately record the following information:
 - (i) the date, time, and dosage of the medication given;
 - (ii) the signature or initials of the provider who administered the medication; and,
 - (iii) any errors in administration or adverse reactions.
- (8) The provider shall report any adverse reaction to a medication or error in administration to the parent immediately upon recognizing the error or reaction, or after notifying emergency personnel if the reaction is life threatening.

R430-60-18. Napping.

If the center uses sleeping equipment for rest time, the following rules apply:

- (1) The provider shall maintain sleeping equipment in good repair.
- (2) A separate crib, cot, mat, or other sleeping equipment shall be used for each child during nap times.
- (3) If sleeping equipment is clearly assigned to and used by an individual child, the provider must clean and sanitize it as needed, but at least weekly.
- (4) If sleeping equipment is not clearly assigned to and used by an individual child, the provider must clean and sanitize it prior to each use.
- (5) The provider must either store sleeping equipment so that the surfaces children sleep on do not touch each other, or else clean and sanitize sleeping equipment prior to each use.
- (6) The provider shall space cribs, cots, and mats a minimum of 2 feet apart when in use, to allow for adequate ventilation, easy access, and ease of exiting.
- (7) Cots and mats may not block exits.

R430-60-19. Child Discipline.

- (1) The provider shall inform caregivers and children of the center's behavioral expectations for children.
- (2) The provider may discipline children using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.
- (3) Caregivers may use gentle, passive restraint with children only when it is needed to stop children from injuring themselves or others or from destroying property.
- (4) Discipline measures shall not include any of the following:
 - (a) any form of corporal punishment such as hitting, spanking, shaking, biting, pinching, or any other measure that produces physical pain or discomfort;
 - (b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds that specified in Subsection (3) above.
 - (c) shouting at children;
 - (d) any form of emotional abuse;
 - (e) forcing or withholding of food, rest, or toileting; and,
 - (f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.

R430-60-20. Activities.

- (1) The provider shall offer a variety of activities and materials that are appropriate to the age and development of the children accepted for care.

- (2) If off-site activities are offered:
 - (a) the provider shall obtain written parental consent for each activity in advance;
 - (b) caregivers shall take written emergency information and releases with them for each child in the group, which shall include:
 - (i) the child's name;
 - (ii) the parent's name and phone number;
 - (iii) the name and phone number of a person to notify in the event of an emergency if the parent cannot be contacted;
 - (iv) the names of people authorized by the parents to pick up the child; and
 - (c) the provider shall maintain required caregiver to child ratios and direct supervision during the activity;
 - (d) at least one caregiver present shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification;
 - (3) If swimming activities are offered, caregivers shall remain with the children during the activity, and lifeguards and pool personnel shall not count toward the caregiver to child ratio.

R430-60-21. Transportation.

- (1) Any vehicle used for transporting children shall:
 - (a) be enclosed;
 - (b) be equipped with individual, size appropriate safety restraints, properly installed and in working order, for each child being transported;
 - (c) have a current vehicle registration and safety inspection;
 - (d) be maintained in a safe and clean condition;
 - (e) maintain temperatures between 60-90 degrees Fahrenheit when in use;
 - (f) contain a first aid kit; and
 - (g) contain a body fluid clean up kit.
- (2) At least one adult in each vehicle transporting children shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification.
- (3) The adult transporting children shall:
 - (a) have and carry with them a current valid Utah driver's license, for the type of vehicle being driven, whenever they are transporting children;
 - (b) have with them written emergency contact information for all of the children being transported;
 - (c) ensure that each child being transported is wearing an appropriate individual safety restraint;
 - (d) ensure that no child is left unattended by an adult in the vehicle;
 - (e) ensure that all children remain seated while the vehicle is in motion;
 - (f) ensure that keys are never left in the ignition when the driver is not in the driver's seat; and,
 - (g) ensure that the vehicle is locked during transport.

R430-60-22. Animals.

- (1) All animals at the facility shall be clean and free of obvious disease or health problems that could adversely affect children.

(2) All animals at the facility shall have current immunizations for all vaccine preventable diseases that are transmissible to humans. The center shall have documentation of the vaccinations.

(3) There shall be no animal on the premises that has a history of dangerous, attacking, or aggressive behavior, or a history of biting even one person.

(4) Children younger than school age shall not assist with the cleaning of animals or animal cages, pens, or equipment.

(5) If a school age child assists in the cleaning of animals or animal cages, the child shall wash his or her hands immediately after handling the animal or animal equipment.

(6) There shall be no animals or animal equipment in food preparation or eating areas.

(7) Children shall not handle reptiles or amphibians.

R430-60-23. Diapering.

If the center diapers children, the following applies:

(1) Caregivers shall change children's diapers at a diaper changing station. Diapers shall not be changed on surfaces used for any other purpose.

(2) Each diapering station shall be equipped with railings to prevent a child from falling when being diapered.

(3) Caregivers shall not leave children unattended on the diapering surface.

(4) The diapering surface shall be smooth, waterproof, and in good repair.

(5) The provider shall post diapering procedures at each diapering station and ensure that they are followed.

(6) There shall be a handwashing sink used exclusively for diapering and handwashing after diapering.

(7) Caregivers shall clean and sanitize the diapering surface after each diaper change.

(8) Caregivers shall wash their hands before and after each diaper change.

(9) Caregivers shall place soiled disposable diapers in a container that has a plastic lining and a tightly fitting lid.

(10) The provider shall daily clean and sanitize containers where soiled diapers are placed.

(11) If cloth diapers are used:

(a) they shall not be rinsed at the center; and

(b) after a diaper change, the caregiver shall place the cloth diaper directly into a leakproof container that is inaccessible to children and labeled with the child's name, or a leakproof diaper service container.

(12) Caregivers shall change children's diapers promptly when they are wet or soiled, and shall check diapers at least once every two hours.

R430-60-24. Infant and Toddler Care.

If the center cares for infants or toddlers, the following applies:

(1) If an infant is not able to sit upright and hold their own bottle, a caregiver shall hold the infant during bottle feeding. Bottles shall not be propped.

(2) The provider shall clean and sanitize high chair trays prior to each use.

(3) The provider shall cut solid foods for infants into pieces no larger than 1/4 inch in diameter. The provider shall cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.

(4) Baby food, formula, and breast milk for infants that is brought from home for an individual child's use must be:

(a) labeled with the child's name;

(b) labeled with the date and time of preparation or opening of the container, such as a jar of baby food;

(c) kept refrigerated if needed; and

(d) discarded within 24 hours of preparation or opening, except that powdered formula or dry foods which are opened, but are not mixed, are not considered prepared.

(5) Formula and milk, including breast milk, shall be discarded after feeding, or within two hours of initiating a feeding.

(6) To prevent burns, heated bottles shall be shaken and tested for temperature before being fed to children.

(7) Pacifiers, bottles, and non-disposable drinking cups shall be labeled with each child's name, and shall not be shared.

(8) Only one infant or toddler shall occupy any one piece of equipment at any time, unless the equipment has individual seats for more than one child.

(9) Infants shall sleep in equipment designed for sleep such as a crib, bassinet, porta-crib or play pen. Infants shall not be placed to sleep on mats or cots, or in bouncers, swings, car seats, or other similar pieces of equipment.

(10) Cribs used by a child in care must:

(a) have tight fitting mattresses;

(b) have slats spaced no more than 2-3/8 inches apart;

(c) have at least 20 inches from the top of the mattress to the top of the crib rail; and

(d) not have strings, cords, ropes, or other entanglement hazards strung across the crib rails.

(11) Infants shall not be placed on their stomachs for sleeping, unless there is documentation from a health care provider for treatment of a medical condition.

(12) Walkers with wheels are prohibited.

(13) Infants and toddlers shall not have access to objects made of styrofoam.

(14) Caregivers shall respond as promptly as possible to infants and toddlers who are in emotional distress due to conditions such as hunger, fatigue, wet or soiled diapers, fear, teething, or illness.

(15) Awake infants and toddlers shall receive positive physical stimulation and positive verbal interaction with a caregiver at least once every 20 minutes.

(16) Awake infants and toddlers shall not be confined for more than 30 minutes in one piece of equipment, such as swings, high chairs, cribs, play pens, or other similar pieces of equipment.

(17) Mobile infants and toddlers shall have freedom of movement in a safe area.

(18) All toys used by infants and toddlers shall be cleaned and sanitized:

(a) weekly;

(b) after being put in a child's mouth before another child plays with it; and

(c) after being contaminated by body fluids.

KEY: child care facilities**Date of Enactment or Last Substantive Amendment: [February 15, 2002]2012****Notice of Continuation: June 6, 2008****Authorizing, and Implemented or Interpreted Law: 26-39**

Health, Family Health and
Preparedness, Child Care Licensing
R430-70
Out of School Time Child Care
Programs

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35576

FILED: 12/23/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As part of the Department's rule review requested by the Governor's Office, the Department concluded that some portions of this rule may exceed the Department's rulemaking authority, and are therefore being eliminated.

SUMMARY OF THE RULE OR CHANGE: The proposed change removes requirements for tuberculosis (TB) testing of staff. The proposal to eliminate staff TB testing is based on a recommendation from the state's TB Advisory Board which indicated that child care providers are not considered to be a high risk group for tuberculosis.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** No state agencies operate out of school time child care programs so there are no anticipated costs or savings to state budgets associated with this rule change.

◆ **LOCAL GOVERNMENTS:** Some local governments operate out of school time child care programs. However the cost of TB testing is usually born by the individual rather than the business, so the agency does not anticipate any cost or savings as a result of this change.

◆ **SMALL BUSINESSES:** Almost all out of school time child care programs are small businesses. However the cost of TB testing is usually born by the individual rather than the business, the agency does not anticipate any cost or savings as a result of this change.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because the cost of TB testing is usually born by the individual rather than the business, the agency does not anticipate any cost or savings as a result of this change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: TB testing costs are born by the individual being tested. Because this rule removes the requirements for individual TB testing, there will be some cost savings to individuals who no longer need this test. Depending on where the test is completed, costs per test could range from \$20 to \$100. In those rare instances where follow-up x-rays are required, costs could range from \$100 to several thousand dollars, depending on where the x-ray is done and what follow-up is required as a result of the x-ray.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A careful and thorough review of child care licensing rules was undertaken during the last year. Health care professionals recommended that testing of staff for tuberculosis was not necessary. Removal of this requirement will save business both time and money. Other changes should also reduce regulatory burdens.

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

HEALTH
FAMILY HEALTH AND PREPAREDNESS,
CHILD CARE LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Teresa Whiting by phone at 801-538-6320, by FAX at 801-538-6325, or by Internet E-mail at twhiting@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 03/01/2012

AUTHORIZED BY: David Patton, PhD, Executive Director

R430. Health, Family Health and Preparedness, Child Care Licensing.**R430-70. Out of School Time Child Care Programs.****R430-70-1. Purpose.**

This rule is promulgated pursuant to Title 26, Chapter 39. It establishes standards for the operation and maintenance of out of school time programs and requirements to protect the health and safety of children in these programs.

R430-70-6. Outdoor Environment.

(1) There shall be an outdoor play area for children that is safely accessible to children.

(2) The outdoor play area shall have at least 40 square feet of space for each child using the playground at the same time.

(3) The outdoor play area shall accommodate at least 33 percent of the licensed capacity at one time or shall be at least 1600 square feet.

(4) The outdoor play area used by children shall be enclosed within a 4 foot high fence or wall, or a solid natural barrier that is at least 4 feet high.

(5) There shall be no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter anywhere in the outdoor play area where children's feet cannot touch the ground.

(6) When in use, the outdoor play area shall be free of [~~trash~~] animal excrement, harmful plants, harmful objects, harmful substances, and standing water.

(7) The outdoor play area shall have a shaded area to protect children from excessive sun and heat.

(8) Children shall have unrestricted access to drinking water whenever the outside temperature is 75 degrees or higher.

(9) All outdoor play equipment and areas shall comply with the following safety standards by the dates specified in Subsection (10) below.

(a) All stationary play equipment used by children shall meet the following requirements for use zones:

(i) If the height of a designated play surface or climbing bar on a piece of equipment, excluding swings, is greater than 20 inches, it shall have use zones that meet the following criteria:

(A) The use zone shall extend a minimum of 6 feet in all directions from the perimeter of each piece of equipment.

(B) The use zones of two pieces of equipment that are positioned adjacent to one another may overlap if the designated play surfaces of each structure are no more than 30 inches above the protective surfacing underneath the equipment. In such cases, there shall be a minimum of 6 feet between the adjacent pieces of equipment.

(C) There shall be a minimum use zone of 9 feet between adjacent pieces of equipment if the designated play surface of one or both pieces of equipment is more than 30 inches above the protective surfacing underneath the equipment.

(ii) The use zone in the front and rear of a single-axis swing shall extend a minimum distance of twice the height of the pivot point of the swing, and may not overlap the use zone of any other piece of equipment.

(iii) The use zone for the sides of a single-axis swing shall extend a minimum of 6 feet from the perimeter of the structure, and may overlap the use zone of a separate piece of equipment.

(iv) The use zone of a multi-axis swing shall extend a minimum distance of 6 feet plus the length of the suspending members, and shall never overlap the use zone of another piece of equipment.

(v) The use zone for merry-go-rounds shall never overlap the use zone of another piece of equipment.

(vi) The use zone for spring rockers shall extend a minimum of 6 feet from the at-rest perimeter of the equipment.

(b) Protective cushioning is required in all use zones.

(c) If sand, gravel, or shredded tires are used as protective cushioning, the depth of the material shall meet the CPSC guidelines in Table 1. The provider shall ensure that the material is periodically checked for compaction, and if compacted, shall loosen the material to the depth listed in Table 1. If the material cannot be loosened due to extreme weather conditions, the provider shall not

allow children to play on the equipment until the material can be loosened to the required depth.

TABLE 1
Depths of Protective Cushioning Required for Sand, Gravel, and Shredded Tires

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine Sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires
4' high or less	6"	6"	6"	6"	6"
Over 4' up to 5'	6"	6"	6"	6"	6"
Over 5' up to 6'	12"	12"	6"	12"	6"
Over 6' up to 7'	12"	Not Allowed	9"	Not Allowed	6"
Over 7' up to 8'	12"	Not Allowed	12"	Not Allowed	6"
Over 8' up to 9'	12"	Not Allowed	12"	Not Allowed	6"
Over 9' up to 10'	Not Allowed	Not Allowed	12"	Not Allowed	6"
Over 10' up to 11'	Not Allowed	Not Allowed	Not Allowed	Not Allowed	6"
Over 11' up to 12'	Not Allowed	Not Allowed	Not Allowed	Not Allowed	6"

(d) If shredded wood products are used as protective cushioning, the depth of the shredded wood shall meet the CPSC guidelines in Table 2.

TABLE 2
Depths of Protective Cushioning Required for Shredded Wood Products

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered Wood Fibers	Double Shredded Wood Chips	Bark Mulch
4' high or less	6"	6"	6"
Over 4' up to 5'	6"	6"	6"
Over 5' up to 6'	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 8'	12"	9"	9"
Over 8' up to 9'	12"	9"	9"
Over 9' up to 10'	12"	9"	9"
Over 10' up to 11'	12"	12"	12"
Over 11'	12"	Not Allowed	Not Allowed

(e) If wood products are used as cushioning material:

(i) the providers shall maintain documentation from the manufacturer verifying that the material meets ASTM Specification F 1292, which is adopted by reference; and

(ii) there shall be adequate drainage under the material.

(f) If a unitary cushioning material, such as rubber mats or poured rubber-like material is used as protective cushioning:

(i) the licensee shall ensure that the material meets the standard established in ASTM Specification F 1292. The provider shall maintain documentation from the manufacturer that the material meets these specifications.

(ii) the licensee shall ensure that the cushioning material is securely installed, so that it cannot become displaced when children jump, run, walk, land, or move on it, or be moved by children picking it up.

(g) Stationary play equipment that has a designated play surface less than 30 inches and that does not have moving parts children sit or stand on, may be placed on grass, but shall not be placed on concrete, asphalt, dirt, or any other hard surface.

(h) Stationary play equipment shall have protective barriers on all play equipment platforms that are over 48 inches above the ground. The bottom of the protective barrier shall be less than 3-1/2 inches above the surface of the platform, and there shall be no openings greater than 3-1/2 inches in the barrier. The top of the protective barrier shall be at least 38 inches above the surface of the platform.

(i) There shall be no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on any piece of stationary play equipment, or within or adjacent to the use zone of any piece of stationary play equipment.

(j) There shall be no protrusion or strangulation hazards on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.

(k) There shall be no crush, shearing, or sharp edge hazards on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.

(l) There shall be no tripping hazards, such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

(10) The outdoor play equipment rules specified in Subsection (9) above must be in compliance by the following dates:

(a) by December 31, 2009: R430-70-6(9)(b-f). There is protective cushioning in all existing use zones that meets the requirements for depth and ASTM Standards.

(b) by December 31, 2010:

(i) R430-70-6(9)(g). Stationary play equipment that has a designated play surface less than 30 inches, and that does not have moving parts children sit or stand on, is not placed on concrete, asphalt, dirt, or any other hard surface, unless equipment is installed in concrete or asphalt footings.

(ii) R430-70-6(9)(j). There are no protrusion or strangulation hazards in or adjacent to the use zone of any piece of stationary play equipment.

(c) By December 31, 2011: R430-70-6(9)(g). Stationary play equipment that has a designated play surface less than 30 inches, and that does not have moving parts children sit or stand on, is not placed on concrete, asphalt, dirt, or any other hard surface.

(d) By December 31, 2012:

(i) R430-70-6(9)(h). Protective barriers are installed on all stationary play equipment that requires them, and the barriers meet the required specifications.

(ii) R430-70-6(9)(i). There are no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on any piece of stationary play equipment, or within or adjacent to the use zone of any piece of stationary play equipment.

(iii) R430-70-6(9)(k). There are no crush, shearing, or sharp edge hazards in or adjacent to the use zone of any piece of stationary play equipment.

(e) By December 31, 2011:

(i) R430-70-6(9)(a)(i-vi). All stationary play equipment has use zones that meet the required measurements.

(ii) R430-70-6(9)(l). There are no tripping hazards, such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

(11) The provider shall maintain playgrounds and playground equipment to protect children's safety.

R430-70-8. Administration.

(1) The licensee is responsible for all aspects of the operation and management of the program.

(2) The licensee shall comply with all federal, state, and local laws and rules pertaining to the operation of a child care program.

(3) The provider shall not engage in or allow conduct that is adverse to the public health, morals, welfare, and safety of the children in care.

(4) The provider shall take all reasonable measures to protect the safety of children in care. The licensee shall not engage in activity or allow conduct that unreasonably endangers children in care.

(5) Either the program director or a designee with ~~written~~ authority to act on behalf of the program director shall be present at the facility whenever the program is open for care.

(6) Director designees shall be at least 21 years of age, and shall have completed their orientation training.

(7) Each week, the program director shall be on-site at the program during operating hours for at least 50% of the time the program is open to children, in order to fulfill the duties specified in this rule, and to ensure compliance with this rule.

(8) The program director must have sufficient freedom from other responsibilities to manage the program and respond to emergencies.

(9) There shall be a working telephone at the facility, and the program director shall inform a parent and the Department of any changes to the program's telephone number within 48 hours of the change.

(10) The provider shall call the Department within 24 hours to report any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless an emergency medical transport was part of a child's medical treatment plan identified by the parent. The provider shall also mail or fax a written report to the Department within five days of the incident.

(11) The duties and responsibilities of the program director include the following:

(a) appoint ~~in writing~~ one or more ~~caregivers~~ individuals who meet the background screening and training requirements of this rule to be a director designee, with authority to act on behalf of the program director in his or her absence;

(b) train and supervise staff to:

(i) ensure their compliance with this rule;

(ii) ensure they meet the needs of the children in care as specified in this rule; and

(iii) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.

(12) The provider shall establish and follow written policies and procedures for the health and safety of the children in care. The written policies and procedures shall address at least the following areas:

- (a) supervision and protection of children at all times, including when they are using the bathroom, on the playground, and during off-site activities;
- (b) maintaining required caregiver to child ratios when the program has more than the expected number of children, or fewer than the scheduled number of caregivers;
- (c) procedures to account for each child's attendance and whereabouts;
- (d) procedures to ensure that the program releases children to authorized individuals only;
- (e) confidentiality and release of information;
- (f) the use of movies and video or computer games, including what industry ratings the program allows;
- (g) recognizing early signs of illness and determining when there is a need for exclusion from the program;
- (h) discipline of children, including behavioral expectations of children and discipline methods used;
- (i) transportation to and from off-site activities, or to and from home, if the program offers these services; and
- (j) if the program offers transportation to or from school, policies addressing:
 - (i) how long children will be unattended before and after school;
 - (ii) what steps will be taken if children fail to meet the vehicle;
 - (iii) how and when parents will be notified of delays or problems with transportation to and from school; and
 - (iv) the use of size-appropriate safety restraints.
- (k) if the program has a computer that is connected to the internet and that is accessible to any child in care:
 - (i) written policies for parents explaining how children's computer use is monitored; and
 - (ii) a signed parent permission form for each child who is allowed to use the computer.
- (13) The provider shall ensure that the written policies and procedures are available for review by parents, staff, and the Department during business hours.

R430-70-9. Records.

- (1) The provider shall maintain the following general records on-site for review by the Department:
 - (a) documentation of the previous 12 months of fire and disaster drills as specified in R430-70-10(9) and R430-70-10(11);
 - (b) current animal vaccination records as required in R430-70-22(3);
 - (c) a six week record of child attendance, including sign-in and sign-out records;
 - ~~[(d) all current variances granted by the Department;~~
 - ~~—————(e)](d) a current local health department inspection;~~
 - ~~[(f)](e) a current local fire department inspection;~~
 - ~~[(g)](f) if the licensee has been licensed for one or more years, the most recent "Request for Annual Renewal of CBS/[MHS]LIC Criminal History Information for Child Care" which includes the licensee and all current providers, caregivers, and volunteers;~~
 - ~~[(h)](g) if the licensee has been licensed for one or more years, the most recent criminal background "Disclosure and Consent Statement" which includes the licensee and all current providers, caregivers, and volunteers; and~~

- (2) The provider shall maintain the following records for each currently enrolled child on-site for review by the Department:
 - (a) an admission form containing the following information for each child:
 - (i) name;
 - (ii) date of birth;
 - ~~[(iii) date of enrollment;~~
 - ~~—————(iv)](iii) the parent's name, address, and phone number, including a daytime phone number;~~
 - ~~[(v)](iv) the names of people authorized by the parent to pick up the child;~~
 - ~~[(vi)](v) the name, address and phone number of a person to be contacted in the event of an emergency if the provider is unable to contact the parent;~~
 - ~~[(vii)](vi) if available, the name, address, and phone number of an out of area/state emergency contact person for the child; and~~
 - ~~[(viii)](vii) current emergency medical treatment and emergency medical transportation releases with the parent's signature;~~
 - (b) a current annual health assessment form as required in R430-70-14(5);
 - (c) a transportation permission form, if the program provides transportation services;
 - (d) a six week record of medication permission forms, and a six week record of medications actually administered; and
 - (e) a six week record of incident, accident, and injury reports.
- (3) The provider shall ensure that information in children's files is not released without written parental permission.
- (4) The provider shall maintain the following records for each staff member on-site for review by the Department:
 - (a) date of initial employment;
 - ~~[(b) results of initial TB screening;~~
 - ~~—————(c)](b) approved initial "CBS/MIS Consent and Release of Liability for Child Care" form;~~
 - ~~[(d)](c) a six week record of days and hours worked;~~
 - ~~[(e)](d) orientation training documentation for caregivers, and for volunteers who work at the program at least once each month;~~
 - ~~[(f)](e) annual training documentation for all providers and substitutes who work an average of 10 hours a week or more, as averaged over any three month period; and~~
 - ~~[(g)](f) current first aid and CPR certification, if applicable as required in R430-70-10(2), R430-70-20(5)(d), and R430-70-21(2).~~

R430-70-10. Emergency Preparedness.

- (1) The provider shall post the program's street address and emergency numbers, including ambulance, fire, police, and poison control, near each telephone in the facility.
- (2) At least one person at the facility at all times when children are in care shall have a current Red Cross, American Heart Association, or equivalent first aid and CPR certification.
- (3) ~~The program shall maintain first aid supplies in the center, including at least antiseptic, band-aids, and tweezers. [The program shall maintain at least one readily available first aid kit, and a second first aid kit for field trips if the program takes children on field trips. A first aid kit that includes the items specified below~~

~~must be taken on each field trip. The first aid kit shall include the following items:~~

- ~~(a) disposable gloves;~~
- ~~(b) assorted sizes of bandaids;~~
- ~~(c) gauze pads and roll;~~
- ~~(d) adhesive tape;~~
- ~~(e) antiseptic or a topical antibiotic;~~
- ~~(f) tweezers; and~~
- ~~(g) scissors.]~~

(4) The provider shall have a written emergency and disaster plan which shall include at least the following:

- (a) procedures for responding to medical emergencies and serious injuries that require treatment by a health care provider;
 - (b) procedures for responding to fire, earthquake, flood, power failure, and water failure;
 - (c) the location of and procedure for emergency shut off of gas, electricity, and water;
 - (d) an emergency relocation site where children may be housed if the facility is uninhabitable;
 - (e) a means of posting the relocation site address in a conspicuous location that can be seen even if the facility is closed;
 - (f) the transportation route and means of getting staff and children to the emergency relocation site;
 - (g) a means of accounting for each child's presence in route to and at the relocation site;
 - (h) a means of accessing children's emergency contact information and emergency releases; including contact information for an out of area/state emergency contact person for the child, if available;
 - (i) provisions for emergency supplies, including at least food, water, a first aid kit, and a cell phone;
 - (j) procedures for ensuring adequate supervision of children during emergency situations, including while at the program's emergency relocation site; and
 - (k) staff assignments for specific tasks during an emergency.
- (5) The provider shall ensure that the emergency and disaster plan is followed in the event of an emergency.
- (6) The provider shall review the emergency and disaster plan annually, and update it as needed. The provider shall note the date of reviews and updates to the plan on the plan.
- (7) The emergency and disaster plan shall be available for immediate review by staff, parents, and the Department during business hours.
- (8) The provider shall conduct fire evacuation drills monthly during each month that the program is open. Drills shall include complete exit of all children and staff from the building.
- (9) The provider shall document all fire drills, including:
- (a) the date and time of the drill;
 - (b) the number of children participating;
 - (c) the name of the person supervising the drill;
 - (d) the total time to complete the evacuation; and
 - (e) any problems encountered.
- (10) The provider shall conduct drills for disasters other than fires at least once every six months that the program is open.
- (11) The provider shall document all disaster drills, including:
- (a) the type of disaster, such as earthquake, flood, prolonged power outage, tornado;

- (b) the date and time of the drill;
- (c) the number of children participating;
- (d) the name of the person supervising the drill; and
- (e) any problems encountered.

(12) The program shall vary the days and times on which fire and other disaster drills are held.

R430-70-12. Injury Prevention.

(1) The provider shall ensure that the building, grounds, toys, and equipment are maintained and used in a safe manner to prevent injury to children.

(2) The provider shall ensure that walkways are free of tripping hazards such as unsecured flooring or cords.

(3) Areas accessible to children shall be free of unstable heavy equipment, furniture, or other items that children could pull down on themselves.

(4) The following items shall be inaccessible to children:

(a) firearms, ammunition, and other weapons on the premises. Firearms shall be stored separately from ammunition, in a ~~locked~~ cabinet or area that is locked with a key or combination lock, unless the use is in accordance with the Utah Concealed Weapons Act, or as otherwise allowed by law;

(b) tobacco, alcohol, illegal substances, and sexually explicit material;

(c) when in use, portable space heaters, fireplaces, and wood burning stoves;

(d) toxic or hazardous chemicals such as insecticides, lawn products, and flammable materials;

(e) poisonous plants;

(f) matches or cigarette lighters;

(g) open flames; and

(h) razors or similarly sharp blades.

(5) The provider shall store all toxic or hazardous chemicals in a container labeled with its contents.

(6) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.

(7) Indoor stationary gross motor play equipment, such as slides and climbers, shall not have a designated play surface that exceeds 5-1/2 feet in height. If such equipment has an elevated designated play surface that is 3 feet or higher it shall be surrounded by cushioning that meets ASTM Standard F1292, in a six foot use zone.

(8) There shall be no trampolines on the premises that are accessible to children in care.

(9) If there is a swimming pool on the premises that is not emptied after each use:

(a) the provider shall ensure that the pool is enclosed within a fence or other solid barrier at least six feet high that is kept locked whenever the pool is not in use;

(b) the provider shall maintain the pool in a safe manner;

(c) the provider shall meet all applicable state and local laws and ordinances related to the operation of a swimming pool; and

(d) If the pool is over four feet deep, there shall be a Red Cross certified life guard on duty, or a lifeguard certified by another agency that the licensee can demonstrate to the Department to be equivalent to Red Cross certification, any time children have access to the pool.

R430-70-13. Parent Notification and Child Security.

(1) The provider shall post a copy of the Department's child care guide in the facility for parents' review during business hours.

(2) Parents shall have access to the facility and their child's classroom at all times their child is in care.

(3) The provider shall ensure the following procedures are followed when children arrive at the facility or leave the facility:

(a) Each child must be signed in and out of the facility, [~~by the person dropping the child off and picking the child up,~~] including the date and time the child arrives or leaves.

(b) Children may sign themselves in and out of the program only with written permission from the parent.

(c) Persons signing children into the facility shall use identifiers, such as a signature, initials, or electronic code.

(d) Persons signing children out of the facility shall use identifiers, such as a signature, initials, or electronic code, and shall have photo identification if they are unknown to the provider.

(e) Only parents or persons with written authorization from the parent may take any child from the facility. In an emergency, the provider may accept verbal authorization if the provider can confirm the identity of the person giving the verbal authorization and the identity of the person picking up the child.

(4) The provider shall give parents a written report of every incident, accident, or injury involving their child on the day of occurrence. The caregivers involved, the program director or director designee, and the person picking the child up shall sign the report on the day of occurrence. If the child signs him or herself out of the program, a copy of the report shall be mailed to the parent.

(5) If a child is injured and the injury appears serious but not life threatening, the provider shall contact the parent immediately, in addition to giving the parent a written report of the injury.

(6) In the case of a life threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb, the provider shall contact emergency personnel immediately, before contacting the parent. If the parent cannot be reached after emergency personnel have been contacted, the provider shall attempt to contact the child's emergency contact person.

R430-70-14. Child Health.

(1) [~~No child may be subjected to physical, emotional, or sexual abuse while in care.~~] The licensee shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.

(2) All staff shall follow the reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation found in Utah Code, Section 62A-4a-403 and 62A-4a-411.

(3) The use of tobacco, alcohol, illegal substances, or sexually explicit material on the premises or in program vehicles is prohibited any time that children are in care.

(4) The provider shall not admit any child to the program without a signed health assessment completed by the parent which shall include:

- (a) allergies;
- (b) food sensitivities;
- (c) acute and chronic medical conditions;
- (d) instructions for special or non-routine daily health care;
- (e) current medications; and,

(f) any other special health instructions for the caregiver.

(5) The provider shall ensure that each child's health assessment is reviewed, updated, and signed or initialed by the parent at least annually.

R430-70-15. Child Nutrition.

(1) If food service is provided:

(a) The provider shall ensure that the program's meal service complies with local health department food service regulations.

(b) Foods served by programs not currently participating and in good standing with the USDA Child and Adult Care Food Program (CACFP) shall comply with the nutritional requirements of the CACFP. The licensee shall either use standard Department-approved menus, menus provided by the CACFP, or menus approved by a registered dietician. Dietitian approval shall be noted and dated on the menus, and shall be current within the past 5 years.

(c) Programs not currently participating and in good standing with the CACFP shall keep a six week record of foods served at each meal or snack.

(d) The provider shall post the current week's menu for parent review.

(2) On days when care is provided for three or more hours, the provider shall offer each child in care a meal or snack at least once every three hours.

(3) The provider shall serve children's food on dishes or napkins, except for individual serving size items, such as crackers, if they are placed directly in the children's hands. The provider shall not place food on a bare table.

(4) If any child in care has a food allergy, the provider shall ensure that all caregivers who serve food to children are aware of the allergy, and that children are not served the food or drink they have an allergy or sensitivity to.

(5) The provider shall ensure that food and drink brought in by parents for an individual child's use is labeled with the child's name, and refrigerated if needed, and shall ensure that the food or drink is only consumed by that child.

R430-70-16. Infection Control.

(1) All staff shall wash their hands thoroughly with liquid soap and warm running water at the following times:

- (a) before handling or preparing food;
- (b) before eating meals and snacks or feeding children;
- (c) after using the toilet;
- (d) before administering medication;
- (e) after coming into contact with body fluids;
- (f) after playing with or handling animals; and
- (g) after cleaning or taking out garbage.

(2) The provider shall ensure that children wash their hands thoroughly with liquid soap and warm running water at the following times:

- (a) before eating meals and snacks;
- (b) after using the toilet;
- (c) after coming into contact with body fluids; and
- (d) after playing with animals.

(3) Only single use towels from a covered dispenser or an electric hand-drying device may be used to dry hands.

(4) The provider shall ensure that toilet paper is accessible to children, and that it is kept on a dispenser.

(5) The provider shall post handwashing procedures in each bathroom, and they shall be followed.

(6) Caregivers shall teach children proper hand washing techniques and shall oversee hand washing whenever possible.

(7) Personal hygiene items such as toothbrushes, or combs and hair accessories that are not sanitized between each use, shall not be shared by children or used by staff on more than one child, and shall be stored so that they do not touch each other.

(8) The provider shall clean and sanitize all washable toys and materials weekly, or more often if necessary.

(9) Stuffed animals, cloth dolls, and dress-up clothes must be machine washable. Pillows must be machine washable, or have removable covers that are machine washable. The provider shall wash stuffed animals, cloth dolls, dress-up clothes, and pillows or covers weekly.

(10) If water play tables or tubs are used, they shall be washed and sanitized daily, and children shall wash their hands prior to engaging in the activity.

~~[(11) The licensee shall ensure that all employees are tested for tuberculosis (TB) within thirty days of hire by an acceptable skin testing method and follow-up.~~

~~[(12) If the TB test is positive, the caregiver shall provide documentation from a health care provider detailing:~~

- ~~(a) the reason for the positive reaction;~~
- ~~(b) whether or not the person is contagious; and~~
- ~~(c) if needed, how the person is being treated.~~

~~[(13)](11) Persons with contagious TB shall not work or volunteer in the program.~~

~~[(14) An employee having a medical condition which contra-indicates a TB test must provide documentation from a health care provider indicating they are exempt from testing, with an associated time frame, if applicable. The provider shall maintain this documentation in the employee's file.~~

~~[(15)](12) Children's clothing shall be changed promptly if they have a toileting accident.~~

~~[(16)](13) Children's clothing which is wet or soiled from body fluids:~~

- ~~(a) shall not be rinsed or washed at the facility; and~~
- ~~(b) shall be placed in a leakproof container, labeled with the child's name, and returned to the parent.~~

~~[(17)](14) The facility shall have a portable body fluid clean up kit.~~

~~(a) All staff shall know the location of the kit and how to use it.~~

~~(b) The provider shall use the kit to clean up spills of body fluids.~~

~~(c) The provider shall restock the kit as needed.~~

~~[(18)](15) The program shall not care for children who are ill with a suspected infectious disease, except when a child shows signs of illness after arriving at the facility.~~

~~[(19)](16) The provider shall separate children who develop signs of a suspected infectious disease after arriving at the facility from the other children in a safe, supervised location.~~

~~[(20)](17) The provider shall contact the parents of children who are ill with a suspected infectious disease and ask them to immediately pick up their child. If the provider cannot reach the parent, the provider shall contact the individuals listed as emergency contacts for the child and ask them to pick up the child.~~

~~[(21)](18) The provider shall notify the local health department, on the day of discovery, of any reportable infectious diseases among children or caregivers, or any sudden or extraordinary occurrence of a serious or unusual illness, as required by the local health department.~~

~~[(22)](19) The provider shall post a parent notice at the facility when any staff or child has an infectious disease or parasite.~~

~~(a) The provider shall post the notice in a conspicuous location where it can be seen by all parents.~~

~~(b) The provider shall post and date the notice the same day the disease or parasite is discovered, and the notice shall remain posted for at least 5 days.~~

R430-70-17. Medications.

(1) If medications are given, they shall be administered to children only by a provider trained in the administration of medications.

(2) All over-the-counter and prescription medications shall:

- (a) be labeled with the child's full name;
- (b) be kept in the original or pharmacy container;
- (c) have the original label; and,
- (d) have child-safety caps.

(3) All non-refrigerated medications shall be inaccessible to children and stored in a container or area that is locked, such as a locked room, cupboard, drawer, or a lockbox. The provider shall store all refrigerated medications in a leakproof container.

(4) The provider shall have a written medication permission form completed and signed by the parent prior to administering any over-the-counter or prescription medication to a child. The permission form must include:

- ~~(a) the name of the child;~~
- ~~[(a)](b) the name of the medication;~~
- ~~[(b)](c) written instructions for administration; including:~~
 - (i) the dosage;
 - (ii) the method of administration;
 - (iii) the times and dates to be administered; and
 - (iv) the disease or condition being treated; and
- ~~[(c)](d) the parent signature and the date signed.~~

(5) If the provider keeps over-the-counter medication at the facility that is not brought in by a parent for their child's use, the medication shall not be administered to any child without prior parental consent for each instance it is given. The consent must be either:

- (a) prior written consent; or
- (b) oral consent for which a provider documents in writing the date and time of the consent, and which the parent signs upon picking up the child.

(6) If the provider chooses not to administer medication as instructed by the parent, the provider shall notify the parent of their refusal to administer the medication prior to the time the medication needs to be given.

(7) When administering medication, the provider administering the medication shall:

- (a) wash their hands;
- (b) check the medication label to confirm the child's name;

- (c) compare the instructions on the parent release form with the directions on the prescription label or product package to ensure that a child is not given a dosage larger than that recommended by the health care provider or the manufacturer;
- (d) administer the medication; and
- (e) immediately record the following information:
 - (i) the date, time, and dosage of the medication given;
 - (ii) the signature or initials of the provider who administered the medication; and,
 - (iii) any errors in administration or adverse reactions.
- (8) The provider shall report any adverse reaction to a medication or error in administration to the parent immediately upon recognizing the error or reaction, or after notifying emergency personnel if the reaction is life threatening.

~~_____ (9) The provider shall not keep medications at the facility for children who are no longer enrolled.~~
]

KEY: child care facilities, child care, child care centers
Date of Enactment or Last Substantive Amendment: ~~January 1, 2010~~ **2012**
Authorizing, Implemented, or Interpreted Law: Title 26, Chapter 39

**Health, Family Health and
 Preparedness, Child Care Licensing
 R430-90
 Licensed Family Child Care**

**NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 35577
 FILED: 12/23/2011**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As part of the Department's rule review requested by the Governor's Office, the Department concluded that some portions of this rule may exceed the Department's rulemaking authority, and are therefore being eliminated.

SUMMARY OF THE RULE OR CHANGE: The proposed change removes requirements for tuberculosis (TB) testing of staff, and makes other minor modifications. The proposal to eliminate staff TB testing is based on a recommendation from the state's TB Advisory Board which indicated that child care providers are not considered to be a high risk group for tuberculosis.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:
 ♦ **THE STATE BUDGET:** No state agencies operate in-home child care programs so there are no anticipated costs or savings to state budgets associated with this rule change.

- ♦ **LOCAL GOVERNMENTS:** No local governments operate in-home child care programs so there are no anticipated costs or savings to local government associated with this rule change.
- ♦ **SMALL BUSINESSES:** Almost all in-home child care programs are small businesses. However the cost of TB testing is usually born by the individual rather than the business, so the agency does not anticipate any cost or savings as a result of this change.
- ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because the cost of TB testing is usually born by the individual rather than the business, the agency does not anticipate any cost or savings as a result of this change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: TB testing costs are born by the individual being tested. Because this rule removes the requirements for individual TB testing, there will be some cost savings to individuals who no longer need this test. Depending on where the test is completed, costs per test could range from \$20 to \$100. In those rare instances where follow-up x-rays are required, costs could range from \$100 to several thousand dollars, depending on where the x-ray is done and what follow-up is required as a result of the x-ray.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A careful and thorough review of child care licensing rules was undertaken during the last year. Health care professionals recommended that testing of staff for tuberculosis was not necessary. Removal of this requirement will save business both time and money. Other changes should also reduce regulatory burdens.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HEALTH
 FAMILY HEALTH AND PREPAREDNESS,
 CHILD CARE LICENSING
 CANNON HEALTH BLDG
 288 N 1460 W
 SALT LAKE CITY, UT 84116-3231
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Teresa Whiting by phone at 801-538-6320, by FAX at 801-538-6325, or by Internet E-mail at twhiting@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 03/01/2012

AUTHORIZED BY: David Patton, PhD, Executive Director

R430. Health, Family Health and Preparedness, Child Care Licensing.**R430-90. Licensed Family Child Care.****R430-90-2. Definitions.**

(1) "Body fluid" means blood, urine, feces, vomit, mucus, or saliva ~~or breast milk~~.

(2) "Caregiver" means a person in addition to the licensee or substitute, including an assistant caregiver, who provides direct care to a child in care.

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

(4) "Emotional abuse" means behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning a child, constant criticism, rejection, profane language, and inappropriate physical restraint.

(5) "Health care provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

(6) "Inaccessible to children" means:

(a) locked, such as in a locked room, cupboard or drawer;

(b) secured with a child safety device, such as a child safety cupboard lock or doorknob device;

(c) behind a properly secured child safety gate;

(d) located in a cupboard or on a shelf more than 36 inches above the floor; or

(e) not in any location in a bathroom where a child could reach, including by climbing on a toilet, bathtub, or counter.

(7) "Infant" means a child aged birth through 11 months of age.

(8) "Infectious disease" means an illness that is capable of being spread from one person to another.

(9) "Licensee" means the person holding a Department of Health child care license.

(10) "Over-the-counter medication" means medication that can be purchased without a written prescription. This includes herbal remedies and vitamin and mineral supplements.

(11) "Parent" means the parent or legal guardian of a child in care.

(12) "Physical abuse" means causing nonaccidental physical harm to a child.

(13) "Preschooler" means a child aged 2 through 4, and 5 year olds who have not yet started kindergarten.

(14) "Provider" means the licensee, a substitute, a caregiver, or an assistant caregiver.

(15) "Related children" means children for whom a provider is the parent, legal guardian, step-parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

(16) "Sanitize" means to reduce the number of germs on a surface to such a level that disease transmission by that surface is unlikely.

(17) "School age" means kindergarten and older age children.

(18) "Sexual abuse" means abuse as provided in Utah Code, Section 76-5-404.1.

(19) "Sexually explicit material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5a-2(8).

(20) "Sleeping equipment" means a cot, mat, crib, bassinet, porta-crib, play pen, or bed.

(21) "Stationary play equipment" means equipment such as a climber, a slide, a swing, a merry-go-round, or a spring rocker that is meant to stay in one location when a child uses it. Stationary play equipment does not include:

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

(d) a playhouse, if the playhouse has no play equipment, such as a slide, swing, ladder, or climber attached to it.

(22) "Strangulation hazard" means something on a component of playground equipment on which a child's clothes or something around a child's neck could become caught. For example, bolt ends that extend more than two threads beyond the face of the nut, hardware configurations that form a hook or leave a gap or space between components, and open "S" type hooks.

(23) "Substitute" means a person who assumes either the licensee's or a caregiver's duties under this rule when the licensee or caregiver is not present. This includes emergency substitutes.

(24) "Supervision" means the function of observing, overseeing, and guiding a child or group of children.

(25) "Toddler" means a child aged 12 months but less than 24 months.

(26) "Unrelated children" means children who are not related children.

(27) "Use zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

(28) "Volunteer" means a person who provides direct care to a child but does not receive direct or indirect compensation for doing so. A volunteer is not included in the provider to child ratio.

R430-90-6. Outdoor Environment.

(1) There shall be an outdoor play area for children that is safely accessible to children.

(2) The outdoor play area shall have at least 40 square feet of space for each child using the space at one time.

(3) The outdoor play area shall be enclosed within a 4 foot high fence or wall, or within a solid natural barrier that is at least 4 feet high if:

(a) the licensee's home is located on a street with a speed limit higher than 25 miles per hour, or within half a mile of a street with a speed limit higher than 25 miles per hour; or

(b) the licensee's home is located on a street with more than two lanes of traffic, or within half a mile of a street with more than two lanes of traffic.

(4) If any of the following hazards exist, they must be located behind a 4 foot high fence, wall, or solid barrier that separates the hazard from the children's outdoor play area:

(a) livestock on the licensee's property or within 50 yards of the licensee's property line;

(b) a water hazard, such as a swimming pool, pond, ditch, lake, reservoir, river, stream, creek, or animal watering trough, on the licensee's property or within 100 yards of the licensee's property line;

(c) dangerous machinery, such as farm equipment, on the licensee's property or within 50 yards of the licensee's property line;

(d) a drop-off of more than five feet on the licensee's property or within 50 yards of the licensee's property line; or

(e) barbed wire within 30 feet of the children's play area.

(5) The outdoor play area shall be free of poisonous plants, harmful objects, toxic or hazardous substances, and standing water.

(6) When in use by a child in care, the outdoor play area shall be free of ~~trash and~~ animal excrement.

(7) If a fence or barrier is required in Subsections (3) or (4) above, or Subsections ~~[12(10)(e)]12(10)(c)(i) or 12(11)(b)~~ below, there shall be no gap greater than five inches in the fence or barrier, nor shall any gap between the bottom of the fence or barrier and the ground be greater than five inches.

~~[(8) Licensees licensed prior to 1 September 2008 who do not have a fence as required by Subsections (3), (4), or (9)(b) shall have until 1 September 2011 to meet this requirement.~~

~~—————(9)](8)~~ The outdoor play area shall have a shaded area to protect each child from excessive sun and heat.

~~[(10)](9)~~ An outdoor source of drinking water, such as individually labeled water bottles or a pitcher of water and individual cups that are taken outside, shall be available to each child whenever the outside temperature is 75 degrees or higher.

~~[(11)](10)~~ Stationary play equipment used by any child in care shall not be located over hard surfaces such as cement, asphalt, or packed dirt, and shall have a 3' use zone. The licensee shall have until 1 September 2013 to meet the 3' use zone requirement.

~~[(12)](11)~~ The licensee shall ensure that children using outdoor play equipment use it safely and in the manner intended by the manufacturer.

~~[(13)](12)~~ There shall be no openings of a size greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on or within the use zone of any piece of stationary play equipment where the feet of any child in care whose head is entrapped in the opening cannot touch the ground.

~~[(14)](13)~~ There shall be no strangulation hazard on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.

~~[(15)](14)~~ There shall be no crush, shearing, or sharp edge hazards on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.

~~[(16)](15)~~ There shall be no tripping hazards, such as concrete footings, tree stumps, exposed tree roots, or rocks within the use zone of any piece of stationary play equipment.

~~[(17)](16)~~ The licensee shall ensure that outdoor play areas and outdoor play equipment are maintained to protect each child's safety.

R430-90-9. Records.

(1) The licensee shall maintain on-site for review by the Department during any inspection the following general records:

(a) documentation of the previous 12 months of quarterly fire drills and annual disaster drills as specified in R430-90-10(9) and R430-90-10(11);

(b) current animal vaccination records as required in R430-90-22(2)(b);

(c) a six week record of child attendance ~~[-including sign-in and sign-out records,]~~ as required in R430-90-13(3);

~~[(d) all current variances granted by the Department;~~

~~—————(e)](d)~~ a current local health department kitchen inspection;

~~[(f)](e)~~ an initial local fire department clearance for all areas of the home being used for care;

~~[(g)](f)~~ approved initial "[~~CBS/MIS~~]CBS/LIS Consent and Release of Liability for Child Care" form for all providers, volunteers, and each person age 12 and older who resides in the licensee's home;

~~[(h)](g)~~ if the licensee has been licensed for more than a year, the most recent criminal background "Disclosure Statement" which includes all providers, volunteers, and each person age 12 and older who resided in the home of the licensee at any time since the last license renewal; and

~~[(i)](h)~~ if the licensee has been licensed for more than a year, the most recent "Request for Annual Renewal of [~~CBS/MIS~~]CBS/LIS Criminal History Information for Child Care" which includes all providers, volunteers, and each person age 12 and older who resided in the home of the licensee at any time since the last license renewal.

(2) The licensee shall maintain on-site for review by the Department during any inspection the following records for each enrolled child:

(a) an admission form containing the following information for each child:

(i) name;

(ii) date of birth;

~~[(iii) date of enrollment;~~

~~—————(iv)](iii)~~ the parent's name, address, and phone number, including a daytime phone number;

~~[(v)](iv)~~ the names of people authorized by the parent to pick up the child;

~~[(vi)](v)~~ the name, address and phone number of a person to be contacted in the event of an emergency if a provider is unable to contact the parent;

~~[(vii)](vi)~~ child health information, as required in R430-90-14~~[(6)](7)~~; and

~~[(viii)](vii)~~ current emergency medical treatment and emergency medical transportation releases with the parent's signature;

(b) current immunization records or documentation of a legally valid exemption, as specified in R430-90-14~~[(4)](5)~~ and ~~[(5)](6)~~;

(c) a completed transportation permission form, if transportation services are offered to any child in care;

(d) a six week record of medication permission forms, and a six week record of medications actually administered as specified in R430-90-17(4) and R430-90-17(6)(f), if medications are administered to any child in care; and

(e) a six week record of incident, accident, and injury reports.

(3) The licensee shall maintain on-site for review by the Department during any inspection the following records for the licensee and each non-emergency substitute and caregiver:

~~[(a) results of an initial TB screening, as required in R430-90-16(11) and (12);~~

~~—————(b)](a)~~ orientation training documentation for all non-emergency substitutes and caregivers as required in R430-90-7(8);

~~(e)~~(b) annual training documentation for the past two years, for the licensee and all non-emergency substitutes and caregivers, as required in R430-90-7(9)(a); and

~~(f)~~(c) current first aid and CPR certification, as required in R430-90-10(2), R430-90-20(3)~~(d)~~(c), and R430-90-21(2).

(4) The licensee shall maintain on-site for review by the Department during any inspection orientation training documentation for each volunteer as required in R430-90-7(8).

(5) The licensee shall ensure that information in any child's file is not released without written parental permission.

R430-90-12. Injury Prevention.

(1) The licensee shall ensure that the home, outdoor play area, toys, and equipment are maintained and used in a safe manner to prevent injury to children.

(2) The licensee shall ensure that ~~the indoor environment is~~ walkways are free of tripping hazards such as unsecured flooring or cords in walkways.

(3) Areas accessible to children shall be free of unstable heavy equipment, furniture, or other items that a child could pull down on himself or herself.

(4) The following items shall be inaccessible to each child in care:

(a) firearms, ammunition, and other weapons on the premises. Firearms shall be stored separately from ammunition, in a cabinet or area that is locked with a key or combination lock, unless the use is in accordance with the Utah Concealed Weapons Act, or as otherwise allowed by law;

(b) tobacco, open containers of alcohol, illegal substances, and sexually explicit material;

(c) when in use: portable space heaters, fireplaces, and wood burning stoves;

(d) toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable materials;

(e) poisonous plants;

(f) matches or cigarette lighters;

(g) open flames;

(h) sharp objects, edges, corners, or points which could cut or puncture skin;

(i) for children age 4 and under, ropes, cords, chains, and wires long enough to encircle a child's neck, such as those found on window blinds or drapery cords;

(j) for children age 4 and under, empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons; and

(k) for children age 2 and under, toys or other items with a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches, or objects with removable parts that have a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches.

(5) The licensee shall ensure that all toxic or hazardous chemicals are stored in a container labeled with its contents.

(6) Electrical outlets and surge protectors accessible to children age four and younger shall have protective caps or safety devices when not in use.

(7) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.

(8) High chairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.

(9) If a wading pool is used:

(a) a provider must be at the pool supervising each child whenever there is water in the pool;

(b) diapered children must wear swim diapers and rubber pants whenever they are in the pool;

(c) the pool shall be emptied and sanitized after each use; and

(d) before each child in care uses the pool, the licensee shall obtain parental permission for the child to use the pool.

(10) If there is a swimming pool on the premises that is not emptied after each use:

(a) a provider must be at the pool supervising each child whenever a child in care is using the pool or has access to the pool;

(b) diapered children must wear swim diapers and rubber pants whenever they are in the pool;

(c) the licensee shall ensure that children in care are protected from unintended access to the pool in one of the following ways:

(i) the pool is enclosed within a fence or other solid barrier at least four feet high that is kept locked whenever the pool is not in use by any child in care; or

(ii) the pool has a properly working ~~power~~ safety cover that meets ASTM Standard F1346, and the ~~power~~ safety cover is in place whenever the pool is not in use by any child in care;

(d) the licensee shall maintain the pool in a safe manner;

(e) the licensee shall meet all applicable state and local laws and ordinances related to the operation of a swimming pool;

(f) if the pool is over six feet deep, there shall be a Red Cross certified life guard on duty, or a lifeguard certified by another agency that the licensee can demonstrate to the Department to be equivalent to Red Cross certification, any time any child in care has access to the pool; and

(g) before each child in care uses the pool, the licensee shall obtain parental permission for the child to use the pool.

(11) If there is a hot tub on the premises with water in it, the licensee shall ensure that children in care are protected from unintended access to the hot tub in one of the following ways:

(a) it shall have a properly working locking cover that is kept locked whenever there is any child in care on the premises; or

(b) it shall be surrounded by a four foot fence.

(12) If there is a trampoline on the premises that is accessible to any child in care, the licensee shall ensure compliance with the following requirements:

(a) A provider must be at the trampoline supervising its use whenever any child in care is on the trampoline.

(b) Only one person at a time may use a trampoline.

(c) No child in care shall be allowed to do somersaults or flips on the trampoline.

(d) The trampoline must have shock absorbing pads that completely cover its springs, hooks, and frame.

(e) The trampoline must be placed at least 6' away from any structure or object onto which a child could fall, including playground equipment, trees, and fences. If the trampoline is completely enclosed within properly installed netting that is in good repair and is at least 6' tall, and that is used as specified by the manufacturer, the trampoline must be placed at least 3' away from any structure or object onto which a child could fall, including playground equipment, trees, and fences.

(f) There shall be no ladders near the trampoline.

(g) No child in care shall be allowed to play under the trampoline when it is in use.

(h) A parent of each child in care who uses the trampoline shall sign a Department-approved permission form before his or her child uses the trampoline.

(i) The trampoline shall be placed over grass or six inches of protective cushioning, which shall extend six feet from the perimeter of the trampoline frame, or three feet from the perimeter of the trampoline frame if a net is used as specified above in subsection (e).

R430-90-16. Infection Control.

(1) All providers and volunteers shall wash their hands with soap and running water at the following times:

- (a) before handling or preparing food or bottles;
- (b) before and after eating meals and snacks or feeding a child;
- (c) after diapering each child;
- (d) after using the toilet or helping a child use the toilet;
- (e) after coming into contact with any body fluid [~~including breast milk~~];
- (f) after playing with or handling animals;
- (g) when coming in from outdoors; and
- (h) before administering medication.

(2) The licensee shall ensure that each child washes his or her hands with soap and running water at the following times:

- (a) before and after eating meals and snacks;
- (b) after using the toilet;
- (c) after coming into contact with any body fluid; and
- (d) when coming in from outdoors.

(3) During outdoor play time, the requirements of Subsections (1) and (2) may be met by having each provider, volunteer, and child clean his or her hands with individual disposable wet wipes and hand sanitizer.

(4) Only single-use paper towels or individually labeled cloth towels shall be used to dry a child's hands. If cloth towels are used, they shall not be shared by children, providers, or volunteers, and a provider shall wash the towels daily.

(5) The licensee shall ensure that toilet paper is accessible to each child, and that it is kept in a dispenser.

(6) The licensee shall ensure that children are taught proper hand washing techniques, and shall oversee hand washing whenever possible.

(7) Personal hygiene items such as toothbrushes, or combs and hair accessories that are not sanitized between each use, shall not be shared by children or used by a provider on more than one child. Each child's items shall be stored so that they do not touch another child's items.

(8) The licensee shall ensure that all washable toys and materials are cleaned and sanitized after each 5 days of use, or more often if needed.

(9) Stuffed animals, cloth dolls, and dress-up clothes must be machine washable. Pillows must be machine washable, or have removable covers that are machine washable. The licensee shall ensure that all stuffed animals, cloth dolls, dress-up clothes, and pillows or covers are washed after each 5 days of use, or more often if needed.

(10) If a water play table or tub is used, the licensee shall ensure that the table or tub is washed and sanitized daily, and that each child washes his or her hands prior to engaging in the activity.

~~[(11) All providers who provide care an average of 10 hours or more each week shall be tested for tuberculosis (TB) using a testing method and follow-up that is acceptable to the Department. Testing shall take place prior to licensure, and for each substitute or caregiver within two weeks of assuming duties.~~

~~(12) If the TB test is positive, the person shall provide documentation from a health care provider detailing:~~

- ~~(a) the reason for the positive reaction;~~
- ~~(b) whether the person is contagious; and~~
- ~~(c) if needed, how the person is being treated.~~

~~(13)(11) Persons with contagious TB shall not work with, assist with, or be present with any child in care.~~

~~[(14) An individual having a medical condition which contra-indicates a TB test must provide documentation from a health care provider indicating the individual is exempt from testing, with an associated time frame if applicable. The licensee shall maintain this documentation in the individual's file.~~

~~(15)(12) A provider shall promptly change a child's clothing if the child has a toileting accident.~~

~~[(16)(13) If a child's clothing is wet or soiled from any body fluid, the licensee shall ensure that:~~

- ~~(a) the clothing is washed and dried; or~~
- ~~(b) the clothing is placed in a leakproof container, labeled with the child's name, and returned to the parent.~~

~~[(17)(14) If a child uses a potty chair, the licensee shall ensure that it is cleaned and sanitized after each use.~~

~~[(18)(15) Except for diaper changes, which are covered in Section R430-90-23, and children's clothing that is soiled from a toileting accident, which is covered in Subsection R430-90-16[(16)](13), the licensee shall ensure that the following precautions are taken when cleaning up blood, urine, feces, and vomit [~~and breast milk~~].~~

- ~~(a) The person cleaning up the substance shall wear waterproof gloves;~~
- ~~(b) the surface shall be cleaned using a detergent solution;~~

- ~~(c) the surface shall be rinsed with clean water;~~
- ~~(d) the surface shall be sanitized;~~

~~(e) if disposable materials such as paper towels or other absorbent materials are used to clean up the body fluid, they shall be disposed of in a leakproof plastic bag;~~

~~(f) if non-disposable materials, such as a cleaning cloth, mop, or re-usable rubber gloves are used to clean up the body fluid, they shall be washed and sanitized before reuse; and~~

~~(g) the person cleaning up the fluid shall wash his or her hands after cleaning up the body fluid.~~

~~[(19)(16) The licensee shall ensure that any child who is ill with an infectious disease is separated from any other children in care in a safe, supervised location.~~

~~[(20)(17) The licensee shall ensure that a parent of any child who becomes ill after arrival is contacted as soon as the illness is observed or suspected.~~

~~[(21)(18) The licensee shall ensure that the parents of every child in care are informed when any person in the home or~~

child in care has an infectious disease or parasite. Parents shall be notified the day the infectious disease or parasite is discovered.

R430-90-17. Medications.

(1) Only a provider trained in the administration of medications as specified in this rule may administer medication to a child in care.

(2) All over-the-counter and prescription medications shall:

- (a) be labeled with the child's name;
- (b) be kept in the original or pharmacy container;
- (c) have the original label; and,
- (d) have child-safety caps.

(3) The licensee shall ensure that all non-refrigerated over-the-counter and prescription medication is inaccessible to children. The licensee shall ensure that all refrigerated over-the-counter and prescription medication is placed in a waterproof container to avoid contamination between food and medication.

(4) The licensee shall have a written medication permission form completed and signed by the parent prior to the administering of any over-the-counter or prescription medication brought in by a parent for his or her child. The permission form must include:

- (a) the name of the child;
- (b) the name of the medication;
- (c) written instructions for administration; including:
 - (i) the dosage;
 - (ii) the method of administration;
 - (iii) the times and dates to be administered; and
 - (iv) the disease or condition being treated; and
 - (d) the parent's signature and the date signed.

(5) If the licensee keeps over-the-counter medication that is not brought in by a parent for his or her child's use, the medication shall not be administered to any child without prior parental consent for each instance it is given. The consent must be either:

- (a) prior written consent; or
- (b) oral consent for which a provider documents in writing the date and time of the consent, and which the parent signs upon picking up the child.

(6) When administering medication, the person administering the medication shall:

- (a) wash his or her hands;
- (b) if the parent supplies the medication, check the medication label to confirm the child's name;

(c) if the parent supplies the medication, compare the instructions on the parent release form with the directions on the prescription label or product package to ensure that a child is not given a dosage larger than that recommended by the health care provider or the manufacturer;

(d) if the licensee supplies the medication, check the product package to ensure that a child is not given a dosage larger than that recommended by the manufacturer;

- (e) administer the medication; and
- (f) immediately record the following information:
 - (i) the date, time, and dosage of the medication given;
 - (ii) the signature or initials of the provider who administered the medication; and,
 - (iii) any errors in administration or adverse reactions.

(7) The licensee shall ensure that any adverse reaction to a medication or any error in administration is reported to the parent immediately upon recognizing the error or reaction, or after notifying emergency personnel if the reaction is life threatening.

~~[(8) The licensee shall not keep medications in the home for any child who is no longer enrolled.]~~

KEY: child care facilities

Date of Enactment or Last Substantive Amendment: [January 1, 2011]2012

Notice of Continuation: June 6, 2008

Authorizing, and Implemented or Interpreted Law: 26-39

**Health, Family Health and
Preparedness, Child Care Licensing
R430-100
Child Care Centers**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35578

FILED: 12/23/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As part of the Department's rule review requested by the Governor's Office, the Department concluded that some portions of this rule may exceed the Department's rulemaking authority, and are therefore being eliminated.

SUMMARY OF THE RULE OR CHANGE: The proposed change removes requirements for tuberculosis (TB) testing of staff, modifies the ratios for mixed age groups, and makes rules for school age classrooms equivalent with Rule R430-70 for Out of School Time Child Care Programs. The proposal to eliminate staff TB testing is based on a recommendation from the state's TB Advisory Board which indicated that child care providers are not considered to be a high risk group for tuberculosis.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Some state agencies operate child care centers. These agencies may be able to care for more school age children as a result of this rule change. However, because the agency has no way of knowing if programs will increase the number of school age children they care for, the agency cannot anticipate what their increased revenue from this might be. Because the cost of TB testing is usually born by the individual rather than the business, the agency does not anticipate any cost or savings as a result of this change.

◆ **LOCAL GOVERNMENTS:** Some local governments operate child care centers. These agencies may be able to

care for more school age children as a result of this rule change. However, because the agency has no way of knowing if programs will increase the number of school age children they care for, the agency cannot anticipate what their increased revenue from this might be. Because the cost of TB testing is usually born by the individual rather than the business, the agency does not anticipate any cost or savings as a result of this change.

♦ **SMALL BUSINESSES:** Almost all child care centers are small businesses. These businesses may be able to care for more school age children as a result of this rule change. However, because the agency has no way of knowing if programs will increase the number of school age children they care for, the agency cannot anticipate what their increased revenue from this might be. Because the cost of TB testing is usually born by the individual rather than the business, the agency does not anticipate any cost or savings as a result of this change.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Businesses may be able to care for more school age children as a result of this rule change. However, because the agency has no way of knowing if programs will increase the number of school age children they care for, the agency cannot anticipate what their increased revenue from this might be. Because the cost of TB testing is usually born by the individual rather than the business, the agency does not anticipate any cost or savings as a result of this change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: TB testing costs are born by the individual being tested. Because this rule removes the requirements for individual TB testing, there will be some cost savings to individuals who no longer need this test. Depending on where the test is completed, costs per test could range from \$20 to \$100. In those rare instances where follow-up x-rays are required, costs could range from \$100 to several thousand dollars, depending on where the x-ray is done and what follow-up is required as a result of the x-ray.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A careful and thorough review of child care licensing rules was undertaken during the last year. Health care professionals recommended that testing of staff for tuberculosis was not necessary. Removal of this requirement will save business both time and money. Other changes should also reduce regulatory burdens.

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

HEALTH
FAMILY HEALTH AND PREPAREDNESS,
CHILD CARE LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Teresa Whiting by phone at 801-538-6320, by FAX at 801-538-6325, or by Internet E-mail at twhiting@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 03/01/2012

AUTHORIZED BY: David Patton, PhD, Executive Director

R430. Health, Family Health and Preparedness, Child Care Licensing.

R430-100. Child Care Centers.

R430-100-2. Definitions.

(1) "Accredited College" means a college accredited by an agency recognized by the United States Department of Education as a valid accrediting agency.

(2) "ASTM" means American Society for Testing and Materials.

(3) "Body fluids" means blood, urine, feces, vomit, mucous, and saliva~~[-, and breast milk]~~.

(4) "Caregiver" means an employee or volunteer who provides direct care to children.

(5) "CPSC" means the Consumer Product Safety Commission.

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

(7) "Designated Play Surface" means a flat surface on a piece of stationary play equipment that a child could stand, walk, sit, or climb on, and is at least 2" by 2" in size.

(8) "Direct Supervision" for infants, toddlers, and preschoolers means the caregiver can see and hear all of the children in his or her assigned group, and is near enough to intervene when necessary. "Direct Supervision" for school age children means the caregiver must be able to hear school age children and must be near enough to intervene when necessary.

(9) "Emotional Abuse" means behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning a child, constant criticism, rejection, profane language, and inappropriate physical restraint.

(10) "Group" means the children assigned to one or two caregivers, occupying an individual classroom or an area defined by furniture or another partition within a room.

(11) "Health Care Provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

(12) "Inaccessible to Children" means either locked, such as in a locked room, cupboard or drawer, or with a child safety lock, or in a location that a child can not get to.

(13) "Infant" means a child aged birth through 11 months of age.

(14) "Infectious Disease" means an illness that is capable of being spread from one person to another.

(15) "Licensee" means the legally responsible person or persons holding a valid Department of Health child care license.

(16) "Over-the-Counter Medication" means medication that can be purchased without a written prescription from a health care provider. This includes herbal remedies and vitamin and mineral supplements.

(17) "Parent" means the parent or legal guardian of a child in care.

(18) "Person" means an individual or a business entity.

(19) "Physical Abuse" means causing nonaccidental physical harm to a child.

(20) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one user to stand on, and upon which the users can move freely.

(21) "Preschooler" means a child aged 2 through 4, and 5 year olds who have not yet started kindergarten.

(22) "Protective Barrier" means an enclosing structure such as bars, lattice, or a solid panel, around an elevated play equipment platform that is intended to prevent a child from either accidentally or deliberately passing through the barrier.

(23) "Protective cushioning" means cushioning material that has been tested to and meets American Society for Testing and Materials Specification F 1292, such as unitary surfaces, wood chips, engineered wood fiber, and shredded rubber mulch. Protective cushioning may also include pea gravel or sand as allowed by the Consumer Product Safety Commission (CPSC). [~~For example, sand, pea gravel, engineered wood fibers, shredded tires, or unitary cushioning material, such as rubber mats or poured rubber-like material.~~]

(24) "Provider" means the licensee or a staff member to whom the licensee has delegated a duty under this rule.

(25) "Sanitize" means to remove soil and small amounts of certain bacteria from a surface or object with a chemical agent.

(26) "School Age" means kindergarten and older age children.

(27) "Sexual Abuse" means abuse as defined in Utah Code, Section 76-5-404.1.(1)(2).

(28) "Sexually Explicit Material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5a-2(8).

(29) "Sleeping Equipment" means a cot, mat, crib, bassinets, porta-crib, or play pen.

(30) "Stationary Play Equipment" means equipment such as a climber, a slide, a swing, a merry-go-round, or a spring rocker that is meant to stay in one location when children use it. Stationary play equipment does not include:

- (a) a sandbox;
- (b) a stationary circular tricycle;
- (c) a sensory table; or

(d) a playhouse, if the playhouse has no play equipment, such as a slide, swing, ladder, or climber attached to it.

(31) "Toddler" means a child aged 12 months but less than 24 months.

(32) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

(33) "Volunteer" means a person who provides care to a child but does not receive direct or indirect compensation for doing so.

R430-100-4. Facility.

(1) The licensee shall ensure that any building or playground structure constructed prior to 1978 which has peeling, flaking, chalking, or failing paint is tested for lead based paint. If lead based paint is found, the licensee shall contact the local health department and follow all required procedures for the [~~removal~~]remediation of the lead based paint.

(2) For preschoolers and toddlers who are toilet trained, [F]there shall be one working toilet and one working sink for every fifteen children in the center, excluding diapered children. For school age children, there shall be one working toilet and one working sink for every 25 children in the center.

(3) School age children shall have privacy when using the bathroom.

(4) For buildings constructed after 1 July 1997 there shall be a working hand washing sink in each classroom.

(5) Each area where infants or toddlers are cared for shall meet one of the following criteria:

(a) There shall be two working sinks in the room. One sink shall be used exclusively for the preparation of food and bottles and hand washing prior to food preparation, and the other sink shall be used exclusively for hand washing after diapering and non-food activities.

(b) There shall be one working sink in the room which is used exclusively for hand washing, and all bottle and food preparation shall be done in the kitchen and brought to the infant and toddler area by a non-diapering staff member.

(6) Infant and toddler areas shall not be used as access to other areas or rooms.

(7) All rooms and occupied areas in the building shall be ventilated by windows that open and have screens or by mechanical ventilation.

(8) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

(9) The provider shall maintain adequate light intensity for the safety of children and the type of activity being conducted by keeping lighting equipment in good working condition.

(10) Windows, glass doors, and glass mirrors within 36 inches from the floor or ground shall be made of safety glass, or have a protective guard.

(11) There shall be at least 35 square feet of indoor space for each child, including the licensee's and employees' children who are not counted in the caregiver to child ratios.

(12) Indoor space per child may include floor space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used:

- (a) by children;
- (b) for the care of children; or
- (c) to store classroom materials.

(13) Bathrooms, closets, staff lockers, hallways, corridors, lobbies, kitchens, or staff offices are not included when calculating indoor space for children's use.

R430-100-6. Outdoor Environment.

(1) There shall be an outdoor play area for children that is safely accessible to children.

(2) The outdoor play area shall have at least 40 square feet of space for each child using the playground at the same time as other children.

(3) The outdoor play area shall accommodate at least 33 percent of the licensed capacity at one time or shall be at least 1600 square feet.

(4) The outdoor play area shall be enclosed within a 4 foot high fence or wall, or a solid natural barrier that is at least 4 feet high. When children play outdoors, they must play in the enclosed play area except during off-site activities described in Section R430-100-20(5).

(5) There shall be no gaps in fences greater than 5 inches at any point, nor shall gaps between the bottom of the fence and the ground be more than 5 inches.

(6) There shall be no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter anywhere in the outdoor play area where children's feet cannot touch the ground.

(7) When in use, the outdoor play area shall be free of ~~trash~~ animal excrement, harmful plants, objects, or substances, and standing water.

(8) The outdoor play area shall have a shaded area to protect children from excessive sun and heat.

(9) An outdoor source of drinking water, such as a drinking fountain, individually labeled water bottles, or a pitcher of water and individual cups that are taken outside, shall be available to children whenever the outside temperature is 75 degrees or higher.

(10) All outdoor play equipment and areas shall comply with the following safety standards ~~by the dates specified in Table 4-1:~~

(a) All stationary play equipment used by infants and toddlers shall meet the following requirements:

(i) There shall be no designated play surface that exceeds 3 feet in height.

(ii) If the height of a designated play surface or climbing bar on a piece of equipment, excluding swings, is greater than 18 inches, it shall have use zones that meet the following criteria:

(A) The use zone shall extend a minimum of 3 feet in all directions from the perimeter of each piece of equipment.

(B) Use zones may overlap if two pieces of equipment are positioned adjacent to one another, with a minimum of 3 feet between the perimeters of the two pieces of equipment.

(C) The use zone in front of a slide may not overlap the use zone of any other piece of equipment.

(iii) The use zone in the front and rear of all swings shall extend a minimum distance of twice the height from the swing seat to the pivot point of the swing, and shall not overlap the use zone of any other piece of equipment.

(iv) The use zone for the sides of a single-axis swing shall extend a minimum of 3 feet from the perimeter of the structure, and may overlap the use zone of a separate adjacent piece of equipment.

(v) The use zone of a multi-axis swing shall extend a minimum distance of 3 feet plus the length of the suspending members, and shall never overlap the use zone of another piece of equipment.

(vi) The use zone for merry-go-rounds shall never overlap the use zone of another piece of equipment.

(vii) The use zone for spring rockers shall extend a minimum of 3 feet from the at-rest perimeter of the equipment.

(viii) Swings shall have enclosed seats.

(b) All stationary play equipment used by preschoolers or school age children shall meet the following requirements for use zones:

(i) If the height of a designated play surface or climbing bar on a piece of equipment, excluding swings, is greater than 20 inches, it shall have use zones that meet the following criteria:

(A) The use zone shall extend a minimum of 6 feet in all directions from the perimeter of each piece of equipment.

(B) The use zones of two pieces of equipment that are positioned adjacent to one another may overlap if the designated play surfaces of each structure are no more than 30 inches above the protective surfacing underneath the equipment. In such cases, there shall be a minimum of 6 feet between the adjacent pieces of equipment.

(C) There shall be a minimum use zone of 9 feet between adjacent pieces of equipment if the designated play surface of one or both pieces of equipment is more than 30 inches above the protective surfacing underneath the equipment.

(ii) The use zone in the front and rear of a single-axis swing shall extend a minimum distance of twice the height of the pivot point of the swing, and may not overlap the use zone of any other piece of equipment.

(iii) The use zone for the sides of a single-axis swing shall extend a minimum of 6 feet from the perimeter of the structure, and may overlap the use zone of a separate piece of equipment.

(iv) The use zone of a multi-axis swing shall extend a minimum distance of 6 feet plus the length of the suspending members, and shall never overlap the use zone of another piece of equipment.

(v) The use zone for merry-go-rounds shall never overlap the use zone of another piece of equipment.

(vi) The use zone for spring rockers shall extend a minimum of 6 feet from the at-rest perimeter of the equipment.

(c) Two-year-olds may play on infant and toddler play equipment.

(d) Protective cushioning is required in all use zones.

(e) If sand, gravel, or shredded tires are used as protective cushioning, the depth of the material shall meet the CPSC guidelines in Table 1. The provider shall ensure that the material is periodically checked for compaction, and if compacted, shall loosen the material to the depth listed in Table 1. If the material cannot be loosened due to extreme weather conditions, the provider shall not allow children to play on the equipment until the material can be loosened to the required depth.

TABLE 1
Depths of Protective Cushioning Required
for Sand, Gravel, and Shredded Tires

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine Sand		Coarse Sand		Gravel		Shredded Tires	
	Fine Sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires			
4' high or less	6"	6"	6"	6"	6"	6"	6"	
Over 4' up to 5'	6"	6"	6"	6"	6"	6"	6"	
Over 5' up to 6'	12"	12"	6"	12"	6"	6"	6"	
Over 6' up to 7'	12"	not allowed	9"	not allowed	6"	6"	6"	
Over 7' up to 8'	12"	not allowed	12"	not allowed	6"	6"	6"	

Over 8' up to 9'	12"	not allowed	12"	not allowed	6"
Over 9' up to 10'	not allowed	not allowed	12"	not allowed	6"
Over 10' up to 11'	not allowed	not allowed	not allowed	not allowed	6"
Over 11' up to 12'	not allowed	not allowed	not allowed	not allowed	6"

(f) If shredded wood products are used as protective cushioning, the depth of the shredded wood shall meet the CPSC guidelines in Table 2.

TABLE 2
Depths of Protective Cushioning Required for Shredded Wood Products

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered Wood Fibers	Wood Chips	Double Shredded Bark Mulch
	4' high or less	6"	6"
Over 4' up to 5'	6"	6"	6"
Over 5' up to 6'	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 8'	12"	9"	9"
Over 8' up to 9'	12"	9"	9"
Over 9' up to 10'	12"	9"	9"
Over 10' up to 11'	12"	12"	12"
Over 11'	12"	not allowed	not allowed

(g) If wood products are used as cushioning material:

(i) the providers shall maintain documentation from the manufacturer verifying that the material meets ASTM Specification F 1292, which is adopted by reference; and

(ii) there shall be adequate drainage under the material.

(h) If a unitary cushioning material, such as rubber mats or poured rubber-like material is used as protective cushioning:

(i) the licensee shall ensure that the material meets the standard established in ASTM Specification F 1292. The provider shall maintain documentation from the manufacturer that the material meets these specifications.

(ii) the licensee shall ensure that the cushioning material is securely installed, so that it cannot become displaced when children jump, run, walk, land, or move on it, or be moved by children picking it up.

(i) Stationary play equipment that has a designated play surface less than the height specified in Table 3, and that does not have moving parts children sit or stand on, may be placed on grass, but shall not be placed on concrete, asphalt, dirt, or any other hard surface.

TABLE 3
Heights of Designated Play Surfaces That May Be Placed on Grass

INFANTS and TODDLERS Less than 18"	PRESCHOOLERS Less than 20"	SCHOOL AGE Less than 30"
---------------------------------------	-------------------------------	-----------------------------

(j) On stationary play equipment used by infants and toddlers, protective barriers shall be provided on all play equipment platforms that are over 18 inches above the ground. The bottom of the protective barrier shall be less than 3-1/2 inches above the

surface of the platform, and there shall be no openings greater than 3-1/2 inches in the barrier. The top of the protective barrier shall be at least 24 inches above the surface of the platform.

(k) On stationary play equipment used by preschoolers, protective barriers shall be provided on all play equipment platforms that are over 30 inches above the ground. The bottom of the protective barrier shall be less than 3-1/2 inches above the surface of the platform, and there shall be no openings greater than 3-1/2 inches in the barrier. The top of the protective barrier shall be at least 29 inches above the surface of the platform.

(l) On stationary play equipment used by school age children, protective barriers shall be provided on all play equipment platforms that are over 48 inches above the ground. The bottom of the protective barrier shall be less than 3-1/2 inches above the surface of the platform, and there shall be no openings greater than 3-1/2 inches in the barrier. The top of the protective barrier shall be at least 38 inches above the surface of the platform.

(m) There shall be no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on any piece of stationary play equipment, or within or adjacent to the use zone of any piece of stationary play equipment.

(n) There shall be no ~~[protrusion or]~~strangulation hazards on, within the use zone of, [in] or adjacent to the use zone of any piece of stationary play equipment.

(o) There shall be no crush, shearing, or sharp edge hazards on, within the use zone of, [in] or adjacent to the use zone of any piece of stationary play equipment.

(p) There shall be no tripping hazards, such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

[

TABLE 4
Phase-in Schedule for Stationary Play Equipment Rules

By December 2007+
~~— R430-100-6(10)(a)(viii)~~
~~— R430-100-6(10)(d-h)~~

By December 2008+
~~— R430-100-6(10)(i), unless equipment is installed in concrete or asphalt footings.~~
~~— R430-100-6(10)(n)~~

By December 2009+
~~— R430-100-6(10)(a)(i)~~
~~— R430-100-6(10)(i), when equipment is installed in concrete or asphalt footings.~~

By December 2010+
~~— R430-100-6(10)(j-l)~~
~~— R430-100-6(10)(m)~~
~~— R430-100-6(10)(o)~~

By December 2011+
~~— R430-100-6(10)(a)(ii-vii), R430-100-6(10)(b), and R430-100-6(10)(e)~~
~~— R430-100-6(10)(p)~~

]

(11) The provider shall maintain playgrounds and playground equipment to protect children's safety.

R430-100-8. Administration.

(1) The licensee is responsible for all aspects of the operation and management of the center.

(2) The licensee shall comply with all federal, state, and local laws and rules pertaining to the operation of a child care center.

(3) The provider shall not engage in or allow conduct that is adverse to the public health, morals, welfare, and safety of the children in care.

(4) The provider shall take all reasonable measures to protect the safety of children in care. The licensee shall not engage in activity or allow conduct that unreasonably endangers children in care.

(5) Either the center director or a designee with ~~written~~ authority to act on behalf of the center director shall be present at the facility whenever the center is open for care.

(6) Director designees shall be at least 21 years of age, and shall have completed their orientation training.

(7) The center director shall be on-site at the center for at least 20 hours per week during operating hours in order to fulfill the duties specified in this rule, and to ensure compliance with this rule.

(8) The center director must have sufficient freedom from other responsibilities to manage the center and respond to emergencies.

(9) There shall be a working telephone at the facility, and the center director shall inform a parent and the Department of any changes to the center's telephone number within 48 hours of the change.

(10) The provider shall call the Department within 24 hours to report any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless an emergency medical transport was part of a child's medical treatment plan identified by the parent. The provider shall also mail or fax a written report to the Department within five days of the incident.

(11) The duties and responsibilities of the center director include the following:

(a) appoint ~~[in writing]~~ one or more ~~[caregivers]~~ individuals who meet the background screening and training requirements of this rule to be a director designee, with authority to act on behalf of the center director in his or her absence;

(b) train and supervise staff to:

(i) ensure their compliance with this rule;

(ii) ensure they meet the needs of the children in care as specified in this rule; and

(iii) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.

(12) The provider shall establish and follow written policies and procedures for the health and safety of the children in care. The written policies and procedures shall address at least the following areas:

(a) direct supervision and protection of children at all times, including when they are sleeping, using the bathroom, in a mixed group activity, on the playground, and during off-site activities;

(b) maintaining required caregiver to child ratios when the center has more than the expected number of children, or fewer than the scheduled number of caregivers;

(c) procedures to account for each child's attendance and whereabouts;

(d) procedures to ensure that the center releases children to authorized individuals only;

(e) confidentiality and release of information;

(f) the use of movies and video or computer games, including what industry ratings the center allows;

(g) recognizing early signs of illness and determining when there is a need for exclusion from the center;

(h) ensuring that food preparation and diapering handwashing are not done in the same sink in infant and toddler areas;

(i) discipline of children, including behavioral expectations of children and discipline methods used;

(j) transportation to and from off-site activities, or to and from home, if the center offers these services; and

(k) if the program offers transportation to or from school, policies addressing:

(i) how long children will be unattended before and after school;

(ii) what steps will be taken if children fail to meet the vehicle;

(iii) how and when parents will be notified of delays or problems with transportation to and from school; and

(iv) the use of size-appropriate safety restraints.

(13) The provider shall ensure that the written policies and procedures are available for review by parents, staff, and the Department during business hours.

R430-100-9. Records.

(1) The provider shall maintain the following general records on-site for review by the Department:

(a) documentation of the previous 12 months of fire and disaster drills as specified in R430-10(11)(12)(13)(14);

(b) current animal vaccination records as required in R430-100-22(3);

(c) a six week record of child attendance, including sign-in and sign-out records;

~~[(d) all current variances granted by the Department;~~

(e) a current local health department inspection;

(f) a current local fire department inspection;

(g) if the licensee has been licensed for one year or longer, the most recent "Request for Annual Renewal of ~~[CBS/MIS]~~ CBS/LIS Criminal History Information for Child Care" listing the licensee and all current providers, caregivers, volunteers, directors, owners, and members of the governing body; and

(h) if the licensee has been licensed for one year or longer, the most recent criminal background "Disclosure and Consent Statement" listing the licensee and all current providers, caregivers, volunteers, directors, owners, and members of the governing body.

(2) The provider shall maintain the following records for each currently enrolled child on-site for review by the Department:

(a) an admission form containing the following information for each child:

(i) name;

(ii) date of birth;

~~[(iii) date of enrollment;~~

~~[(iv)](iii)~~ the parent's name, address, and phone number, including a daytime phone number;

~~[(v)](iv)~~ the names of people authorized by the parent to pick up the child;

~~[(vi)]~~(v) the name, address and phone number of a person to be contacted in the event of an emergency if the provider is unable to contact the parent;

~~[(vii)]~~(vi) if available, the name, address, and phone number of an out of area/state emergency contact person for the child; and

~~[(viii)]~~(vii) current emergency medical treatment and emergency medical transportation releases with the parent's signature;

(b) a current annual health assessment form as required in R430-100-14(5);

(c) for each infant, toddler, and preschooler, current immunization records or documentation of a legally valid exemption, as specified in R430-100-14(4);

(d) a transportation permission form, if the center provides transportation services;

(e) a six week record of medication permission forms, and a six week record of medications actually administered; and

(f) a six week record of incident, accident, and injury reports; and

(g) a six week record of eating, sleeping, and diaper changes as required in R430-100-23(12) R430-100-24(15).

(3) The provider shall ensure that information in children's files is not released without written parental permission.

(4) The provider shall maintain the following records for each staff member on-site for review by the Department:

(a) date of initial employment;

~~[(b)]~~ results of initial TB screening;

~~[(e)]~~(b) approved initial "[CBS/MHS]CBS/LIS Consent and Release of Liability for Child Care" form;

~~[(d)]~~(c) a six week record of days worked, and the times worked each day;

~~[(e)]~~(d) orientation training documentation for caregivers, and for volunteers who work at the center at least once each month;

~~[(f)]~~(e) annual training documentation for all providers and substitutes who work an average of 10 hours or more a week, as averaged over any three month period; and

~~[(g)]~~(f) current first aid and CPR certification, if applicable as required in R430-100-10(2), R430-100-20(5)(d), and R430-100-21(2).

R430-100-10. Emergency Preparedness.

(1) The provider shall post the center's street address and emergency numbers, including ambulance, fire, police, and poison control, near each telephone in the center.

(2) At least one person at the facility at all times when children are in care shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification. Equivalent CPR certification must include hands-on testing.

(3) The licensee shall maintain first-aid supplies in the center, including at least antiseptic, band-aids, and tweezers. ~~[The center shall maintain at least one readily available first aid kit, and a second first aid kit for field trips if the center takes children on field trips. The first aid kit shall include the following items:~~

~~[(a)]~~ disposable gloves;

~~[(b)]~~ assorted sizes of bandaids;

~~[(c)]~~ gauze pads and roll;

~~[(d)]~~ adhesive tape;

~~[(e)]~~ antiseptic or a topical antibiotic;

~~[(f)]~~ tweezers; and

~~[(g)]~~ scissors.

~~[(4)]~~ Each first aid kit shall be in a closed container, readily accessible to staff but inaccessible to children.]

~~[(5)]~~(4) The provider shall have a written emergency and disaster plan which shall include at least the following:

(a) procedures for responding to medical emergencies and serious injuries that require treatment by a health care provider;

(b) procedures for responding to fire, earthquake, flood, power failure, and water failure;

(c) the location of and procedure for emergency shut off of gas, electricity, and water;

(d) an emergency relocation site where children may be housed if the center is uninhabitable;

(e) a means of posting the relocation site address in a conspicuous location that can be seen even if the center is closed;

(f) the transportation route and means of getting staff and children to the emergency relocation site;

(g) a means of accounting for each child's presence in route to and at the relocation site;

(h) a means of accessing children's emergency contact information and emergency releases; including contact information for an out of area/state emergency contact person for the child, if available;

(i) provisions for emergency supplies, including at least food, water, a first aid kit, diapers if the center cares for diapered children, and a cell phone;

(j) procedures for ensuring adequate supervision of children during emergency situations, including while at the center's emergency relocation site; and

(k) staff assignments for specific tasks during an emergency.

~~[(6)]~~(5) The provider shall ensure that the emergency and disaster plan is followed in the event of an emergency.

~~[(7)]~~(6) The provider shall review the emergency and disaster plan annually, and update it as needed. The provider shall note the date of reviews and updates to the plan on the plan.

~~[(8)]~~(7) The emergency and disaster plan shall be available for immediate review by staff, parents, and the Department during business hours.

~~[(9)]~~(8) The provider shall conduct fire evacuation drills monthly. Drills shall include complete exit of all children and staff from the building.

~~[(10)]~~(9) The provider shall document all fire drills, including:

(a) the date and time of the drill;

(b) the number of children participating;

(c) the name of the person supervising the drill;

(d) the total time to complete the evacuation; and

(e) any problems encountered.

~~[(11)]~~(10) The provider shall conduct drills for disasters other than fires at least once every six months.

~~[(12)]~~(11) The provider shall document all disaster drills, including:

(a) the type of disaster, such as earthquake, flood, prolonged power outage, tornado;

(b) the date and time of the drill;

(c) the number of children participating;

- (d) the name of the person supervising the drill; and
- (e) any problems encountered.

~~[(13)](12)~~ The center shall vary the days and times on which fire and other disaster drills are held.

R430-100-11. Supervision and Ratios.

(1) The provider shall ensure that caregivers provide and maintain direct supervision of all children at all times.

(2) Caregivers shall actively supervise children on the playground to minimize the risk of injury to a child.

(3) There shall be at least two caregivers with the children at all times when there are more than 8 children or more than 2 infants present.

(4) The licensee shall maintain the minimum caregiver to child ratios and group sizes in Table 5 for single age groups of children.

TABLE [5]4
Minimum Caregiver to Child Ratios and Group Sizes

Ages of Children	# of Caregivers	# of Children	Maximum Group Size
birth - 23 months	1	4	8
2 years old	1	7	14
3 years old	1	12	24
4 years old	1	15	30
5 years old and school age	1	20	40

(5) A center constructed prior to 1 January 2004 which has been licensed and operated as a child care center continuously since 1 January 2004 is exempt from maximum group size requirements, if the required caregiver to child ratios are maintained, and the required square footage for each classroom is maintained.

~~[(6) Ratios and group sizes for mixed age groups are determined by averaging the ratios and group sizes of the ages represented in the group, with the following exception: if more than half of the group is composed of children in the youngest age group, the caregiver to child ratio and group size for the youngest age shall be maintained.~~

~~[(7) Table 6 represents the caregiver to child ratios and group size for common mixed age groups.~~

TABLE 6
Minimum Caregiver to Child Ratios and Group Sizes for Mixed Age Groups

TWO MIXED AGES	# of Caregivers	# of Children	Maximum Group Size
2 and 3 years	1	10	19
3 and 4 years	1	14	27
4 and 5 years and school age	1	18	35

THREE MIXED AGES	# of Caregivers	# of Children	Maximum Group Size
2, 3, and 4 years	1	11	23
3, 4, and 5 years and school age	1	16	31

FOUR MIXED AGES	# of Caregivers	# of Children	Maximum Group Size
2, 3, 4 and 5 years and school age	1	13	27

(6) Mixed age groups shall meet the ratios and group sizes specified in Tables 5-15.

TABLE 5
Two-year-olds and Three-year-olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	3	1-9
	Total children: up to 10	
2	2	1-13
	3	1-19
	Total children: up to 20	

TABLE 6
Two-year-olds and Four-year-olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	4	1-10
	Total children: up to 11	
2	2	1-13
	4	1-21
	Total children: up to 22	

TABLE 7
Two-year-olds and Five-twelve Year-olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	5-12	1-13
	Total children: up to 14	
2	2	1-13
	5-12	1-27
	Total children: up to 28	

TABLE 8
Three-year-olds and Four-year-olds

# Caregivers Required	Age	# Children Present
1	3	1-11
	4	1-13
	Total children: up to 14	
2	3	1-23
	4	1-27
	Total children: up to 28	

TABLE 9
Three-year-olds and Five-twelve Year-olds

# Caregivers Required	Age	# Children Present
1	3	1-11
	5-12	1-15
	Total children: up to 16	
2	3	1-23
	5-12	1-31
	Total children: up to 32	

TABLE 10
Four-year-olds and Five-twelve Year-olds

# Caregivers Required	Age	# Children Present
1	4	1-14
	5-12	1-17
	Total children: up to 18	
2	4	1-29
	5-12	1-35
	Total children: up to 36	

]

TABLE 11

Two-year-olds, Three-year-olds, and Four-year-olds		
# Caregivers Required	Age	# Children Present
1	2	1-6
	3	1-9
	4	1-9
	Total children: up to 11	
2	2	1-13
	3	1-20
	4	1-20
Total children: up to 22		

TABLE 12

Two-year-olds, Three-year-olds, and Five-twelve Year Olds		
# Caregivers Required	Age	# Children Present
1	2	1-6
	3	1-11
	5-12	1-11
	Total children: up to 13	
2	2	1-13
	3	1-24
	5-12	1-24
Total children: up to 26		

TABLE 13

Two-year-olds, Four-year-olds, and Five-twelve Year-olds		
# Caregivers Required	Age	# Children Present
1	2	1-6
	4	1-12
	5-12	1-12
	Total: up to 14	
2	2	1-13
	4	1-26
	5-12	1-26
Total children: up to 28		

TABLE 14

Three-year-olds, Four-year-olds, and Five-twelve Year-olds		
# Caregivers Required	Age	# Children Present
1	3	1-11
	4	1-14
	5-12	1-14
	Total: up to 16	
2	3	1-23
	4	1-30
	5-12	1-30
Total children: up to 32		

TABLE 15

Two-year-olds, Three-year-olds, Four-year-olds, & Five-11-year-olds		
# Caregivers Required	Age	# Children Present
1	2	1-6
	3	1-11
	4	1-11
	5-12	1-11
	Total children: up to 14	
2	2	1-13
	3	1-25
	4	1-25
	5-12	1-25
Total children: up to 28		

[(8)](7) Infants and toddlers may be included in mixed age groups only when 8 or fewer children are present [at the center]in the group.

[(9)](8) If more than 2 infants or toddlers are included in a mixed age group, there shall be at least 2 caregivers with the group.

[(10)](9) During nap time the caregiver to child ratio may double for not more than two hours for children age 18 months and older, if the children are in a restful or non-active state, and if a means of communication is maintained with another caregiver who is on-site. The caregiver supervising the napping children must be able to contact the other on-site caregiver without having to leave children unattended in the napping area.

[(11)](10) The children of the licensee or any employee, age four or older, are not counted in the caregiver to child ratios when the parent of the child is working at the center, but are counted in the maximum group size.

R430-100-12. Injury Prevention.

(1) The provider shall ensure that the building, grounds, toys, and equipment are maintained and used in a safe manner to prevent injury to children.

(2) The provider shall ensure that [the indoor environment is]walkways are free of tripping hazards such as unsecured flooring or cords.

(3) Areas accessible to children shall be free of unstable heavy equipment, furniture, or other items that children could pull down on themselves.

(4) The following items shall be inaccessible to children:

(a) firearms, ammunition, and other weapons on the premises. Firearms shall be stored separately from ammunition, in a [locked] cabinet or area that is locked with a key or combination lock, unless the use is in accordance with the Utah Concealed Weapons Act, or as otherwise allowed by law;

(b) tobacco, alcohol, illegal substances, and sexually explicit material;

(c) when in use, portable space heaters, fireplaces, and wood burning stoves;

(d) toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable materials;

(e) poisonous plants;

(f) matches or cigarette lighters;

(g) open flames;

(h) sharp objects, edges, corners, or points which could cut or puncture skin;

(i) for children age 4 and under, ropes, [and]cords, wires and chains long enough to encircle a child's neck, such as those found on window blinds or drapery cords;

(j) for children age 4 and under, plastic bags large enough for a child's head to fit inside, latex gloves, and balloons; and

(k) for children age 2 and under, toys or other items with a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches, or objects with removable parts that have a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches.

(5) The provider shall store all toxic or hazardous chemicals in a container labeled with its contents.

(6) Electrical outlets and surge protectors accessible to children age four and younger shall have protective caps or safety devices when not in use.

(7) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.

(8) High chairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.

(9) Indoor stationary gross motor play equipment, such as slides and climbers, accessible to children under age 3 shall not have a designated play surface that exceeds 3 feet in height.

(a) If such equipment has an elevated designated play surface less than 18 inches in height, it shall not be placed on a hard surface, such as wood, tile, linoleum, or concrete, and shall have a three foot use zone.

(b) If such equipment has an elevated designated play surface that is 18 inches to 3 feet in height, it shall be surrounded by mats at least 2 inches thick, or cushioning that meets ASTM Standard F1292, in a three foot use zone.

(10) Indoor stationary gross motor play equipment, such as slides and climbers, accessible to children age 3 and older shall not have a designated play surface that exceeds 5-1/2 feet in height.

(a) If such equipment has an elevated designated play surface less than 3 feet in height, it shall be surrounded by protective cushioning material, such as mats at least 1 inch thick, in a six foot use zone.

(b) If such equipment has an elevated designated play surface that is 3 feet to 5-1/2 feet in height, it shall be surrounded by cushioning that meets ASTM Standard F1292, in a six foot use zone.

(11) There shall be no trampolines on the premises that are accessible to any child in care.

(12) If there is a swimming pool on the premises that is not emptied after each use:

(a) the provider shall ensure that the pool is enclosed within a fence or other solid barrier at least six feet high that is kept locked whenever the pool is not in use;

(b) the provider shall maintain the pool in a safe manner;

(c) the provider shall meet all applicable state and local laws and ordinances related to the operation of a swimming pool; and

(d) If the pool is over four feet deep, there shall be a Red Cross certified life guard on duty, or a lifeguard certified by another agency that the licensee can demonstrate to the Department to be equivalent to Red Cross certification, any time children have access to the pool.

(13) If wading pools are used:

(a) a caregiver must be at the pool supervising children whenever there is water in the pool;

(b) diapered children must wear swim diapers ~~[or]~~ and rubber pants while in the pool; and

(c) the pool shall be emptied and sanitized after each use by a separate group of children.

R430-100-13. Parent Notification and Child Security.

(1) The provider shall post a copy of the Department's child care guide in the center for parents' review during business hours.

(2) Parents shall have access to the center and their child's classroom at all times their child is in care.

(3) The provider shall ensure the following procedures are followed when children arrive at the center or leave the center:

(a) Each child must be signed in and out of the center ~~[by the person dropping the child off and picking the child up],~~ including the date and time the child arrives or leaves.

(b) Persons signing children into the center shall use identifiers, such as a signature, initials, or electronic code.

(c) Persons signing children out of the center shall use identifiers, such as a signature, initials, or electronic code, and shall have photo identification if they are unknown to the provider.

(d) Only parents or persons with written authorization from the parent may take any child from the center. In an emergency, the provider may accept verbal authorization if the provider can confirm the identity of the person giving the verbal authorization and the identity of the person picking up the child.

(e) School age children may sign themselves in and out of the center with written permission from their parent.

(4) The provider shall give parents a written report of every incident, accident, or injury involving their child on the day of occurrence. The caregivers involved, the center director, and the person picking the child up shall sign the report on the day of occurrence. If a school age child signs himself or herself out of the center, a copy of the report shall be mailed to the parent on the day following the occurrence.

(5) If a child is injured and the injury appears serious but not life threatening, the provider shall contact the parent immediately, in addition to giving the parent a written report of the injury.

(6) In the case of a life threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb, the provider shall contact emergency personnel immediately, before contacting the parent. If the parent cannot be reached after emergency personnel have been contacted, the provider shall attempt to contact the child's emergency contact person.

R430-100-14. Child Health.

(1) ~~[No child may be subjected to physical, emotional, or sexual abuse while in care.]~~ The licensee shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.

(2) All staff shall follow the reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation found in Utah Code, Section 62A-4a-403 and 62A-4a-411.

(3) The use of tobacco, alcohol, illegal substances, or sexually explicit material on the premises or in center vehicles is prohibited any time that children are in care.

(4) The provider shall not admit any infant, toddler, or preschooler to the center without documentation of:

(a) proof of current immunizations, as required by Utah law;

(b) proof of receiving at least one dose of each required vaccine prior to enrollment, and a written schedule to receive all subsequent required vaccinations; or

(c) written documentation of an immunization exemption due to personal, medical or religious reasons.

(5) The provider shall not admit any child to the center without a signed health assessment completed by the parent which shall include:

(a) allergies;

(b) food sensitivities;

(c) acute and chronic medical conditions;

(d) instructions for special or non-routine daily health care;

(e) current medications; and,

(f) any other special health instructions for the caregiver.

(6) The provider shall ensure that each child's health assessment is reviewed, updated, and signed or initialed by the parent at least annually.

R430-100-15. Child Nutrition.

(1) If food service is provided:

(a) The provider shall ensure that the center's meal service complies with local health department food service regulations.

(b) Foods served by centers not currently participating and in good standing with the USDA Child and Adult Care Food Program (CACFP) shall comply with the nutritional requirements of the CACFP. The licensee shall either use standard Department-approved menus, menus provided by the CACFP, or menus approved by a registered dietician. Dietitian approval shall be noted and dated on the menus, and shall be current within the past 5 years.

(c) Centers not currently participating and in good standing with the CACFP shall keep a six week record of foods served at each meal or snack.

(d) The provider shall post the current week's menu for parent review.

(2) The provider shall offer meals or snacks at least once every three hours.

(3) The provider shall serve children's food on dishes, napkins, or sanitary high chair trays, except for individual serving size items, such as crackers, if they are placed directly in the children's hands. The provider shall not place food on a bare table.

(4) The provider shall ~~post a list of children's food allergies and sensitivities in the food preparation area, and shall~~ ensure that caregivers who serve food to children are aware of ~~[this information]~~ food allergies and sensitivities for the children in their assigned group, ~~and that children are not served the food or drink they have an allergy or sensitivity to.~~

(5) The provider shall ensure that food and drink brought in by parents for an individual child's use is labeled with the child's name, and refrigerated if needed, ~~and shall ensure that the food or drink is only consumed by that child.~~

R430-100-16. Infection Control.

(1) Staff shall wash their hands thoroughly with liquid soap and warm running water at the following times:

- (a) before handling or preparing food or bottles;
- (b) before and after eating meals and snacks or feeding children;
- (c) before and after diapering a child;
- (d) after using the toilet or helping a child use the toilet;
- (e) before administering medication;
- (f) after coming into contact with body fluids, including breast milk;
- (g) after playing with or handling animals;
- (h) when coming in from outdoors; and
- (i) after cleaning or taking out garbage.

(2) The provider shall ensure that children wash their hands thoroughly with liquid soap and warm running water at the following times:

- (a) before and after eating meals and snacks;
- (b) after using the toilet;
- (c) after coming into contact with body fluids;

(d) after playing with animals; and

(e) when coming in from outdoors.

(3) Only single use towels from a covered dispenser or an electric hand-drying device may be used to dry hands.

(4) The provider shall ensure that toilet paper is accessible to children, and that it is kept on a dispenser.

(5) The provider shall post handwashing procedures ~~[at]~~ that are readily visible from each handwashing sink, and they shall be followed.

(6) Caregivers shall teach children proper hand washing techniques and shall oversee hand washing whenever possible.

(7) Personal hygiene items such as toothbrushes, or combs and hair accessories that are not sanitized between each use, shall not be shared by children or used by staff on more than one child, and shall be stored so that they do not touch each other.

(8) The provider shall clean and sanitize all washable toys and materials weekly, or more often if necessary.

(9) Stuffed animals, cloth dolls, and dress-up clothes must be machine washable. Pillows must be machine washable, or have removable covers that are machine washable. The provider shall wash stuffed animals, cloth dolls, dress-up clothes, and pillows or covers weekly.

(10) If water play tables or tubs are used, they shall be washed and sanitized daily, and children shall wash their hands prior to engaging in the activity.

~~[(11) The licensee shall ensure that all employees are tested for tuberculosis (TB) within 30 days of hire by an acceptable skin testing method and follow-up.~~

~~[(12) If the TB test is positive, the caregiver shall provide documentation from a health care provider detailing:~~

- ~~(a) the reason for the positive reaction;~~
- ~~(b) whether or not the person is contagious; and~~
- ~~(c) if needed, how the person is being treated.~~

~~[(13)](11) Persons with contagious TB shall not work or volunteer in the center.~~

~~[(14) An employee having a medical condition which contra-indicates a TB test must provide documentation from a health care provider indicating they are exempt from testing, with an associated time frame, if applicable. The provider shall maintain this documentation in the employee's file.~~

~~[(15)](12) Children's clothing shall be changed promptly if they have a toileting accident.~~

~~[(16)](13) Children's clothing which is wet or soiled from body fluids:~~

- (a) shall not be rinsed or washed at the center; and
- (b) shall be placed in a leakproof container, labeled with the child's name, and returned to the parent.

~~[(17)](14) If the center uses a potty chair, the provider shall clean and sanitize the chair after each use.~~

~~[(18)](15) Staff who prepare food in the kitchen shall not change diapers or assist in toileting children.~~

~~[(19)](16) The center shall have a portable body fluid clean up kit.~~

(a) All staff shall know the location of the kit and how to use it.

(b) The provider shall use the kit to clean up spills of body fluids.

(c) The provider shall restock the kit as needed.

~~[(20)]~~(17) The center shall not care for children who are ill with an infectious disease, except when a child shows signs of illness after arriving at the center.

~~[(21)]~~(18) The provider shall separate children who develop signs of an infectious disease after arriving at the center from the other children in a safe, supervised location.

~~[(22)]~~(19) The provider shall contact the parents of children who are ill with an infectious disease and ask them to immediately pick up their child. If the provider cannot reach the parent, the provider shall contact the individuals listed as emergency contacts for the child and ask them to pick up the child.

~~[(23)]~~(20) The provider shall notify the local health department, on the day of discovery, of any reportable infectious diseases among children or caregivers, or any sudden or extraordinary occurrence of a serious or unusual illness, as required by the local health department.

~~[(24)]~~(21) The provider shall post a parent notice at the center when any staff or child has an infectious disease or parasite.

(a) The provider shall post the notice in a conspicuous location where it can be seen by all parents.

(b) The provider shall post and date the notice the same day the disease or parasite is discovered, and the notice shall remain posted for at least 5 days.

R430-100-17. Medications.

(1) If medications are given, they shall be administered to children only by a provider trained in the administration of medications as specified in this rule.

(2) All over-the-counter medications provided by parents and all prescription medications shall:

- (a) be labeled with the child's full name;
- (b) be kept in the original or pharmacy container;
- (c) have the original label; and,
- (d) have child-safety caps.

(3) All non-refrigerated medications shall be inaccessible to children and stored in a container or area that is locked, such as a locked room, cupboard, drawer, or a lockbox. The provider shall store all refrigerated medications in a leakproof container.

(4) The provider shall have a written medication permission form completed and signed by the parent prior to administering any over-the-counter or prescription medication to a child. The permission form must include:

- ~~(a)~~ the name of the child;
- ~~[(a)]~~(b) the name of the medication;
- ~~[(b)]~~(c) written instructions for administration; including:
 - (i) the dosage;
 - (ii) the method of administration;
 - (iii) the times and dates to be administered; and
 - (iv) the disease or condition being treated; and
- ~~[(c)]~~(d) the parent signature and the date signed.

(5) If the provider keeps over-the-counter medication at the center that is not brought in by a parent for their child's use, the medication shall not be administered to any child without prior parental consent for each instance it is given. The consent must be either:

- (a) prior written consent; or
- (b) oral consent for which a provider documents in writing the date and time of the consent, and which the parent or person picking up the child signs upon picking up the child.

(6) If the provider chooses not to administer medication as instructed by the parent, the provider shall notify the parent of their refusal to administer the medication prior to the time the medication needs to be given.

(7) When administering medication, the provider administering the medication shall:

- (a) wash their hands;
- (b) check the medication label to confirm the child's name;
- (c) compare the instructions on the parent release form with the directions on the prescription label or product package to ensure that a child is not given a dosage larger than that recommended by the health care provider or the manufacturer;
- (d) administer the medication; and
- (e) immediately record the following information:
 - (i) the date, time, and dosage of the medication given;
 - (ii) the signature or initials of the provider who administered the medication; and,
 - (iii) any errors in administration or adverse reactions.

(8) The provider shall report any adverse reaction to a medication or error in administration to the parent immediately upon recognizing the error or reaction, or after notifying emergency personnel if the reaction is life threatening.

~~[(9)]~~ The provider shall not keep medications at the center for children who are no longer enrolled.

R430-100-18. Napping.

(1) The center shall provide children with a daily opportunity for rest or sleep in an environment that provides subdued lighting, a low noise level, and freedom from distractions.

(2) Scheduled nap times shall not exceed two hours daily.

(3) A separate crib, cot, mat, or other sleeping equipment shall be used for each child during nap times.

(4) Mats and mattresses used for napping shall ~~[be at least 2 inches thick and shall]~~ have a smooth, waterproof surface.

(5) The provider shall maintain sleeping equipment in good repair.

(6) If sleeping equipment is clearly assigned to and used by an individual child, the provider must clean and sanitize it as needed, but at least weekly.

(7) If sleeping equipment is not clearly assigned to and used by an individual child, the provider must clean and sanitize it prior to each use.

(8) The provider must either store sleeping equipment so that the surfaces children sleep on do not touch each other, or else clean and sanitize sleeping equipment prior to each use.

(9) A sheet and blanket or acceptable alternative shall be used by each child during nap time. These items shall be:

- (a) clearly assigned to one child;
- (b) stored separately from other children's when not in use; and,
- (c) laundered as needed, but at least once a week, and prior to use by another child.

(10) The provider shall space cribs, cots, and mats a minimum of 2 feet apart when in use, to allow for adequate ventilation, easy access, and ease of exiting.

(11) Cots and mats may not block exits.

R430-100-22. Animals.

(1) The provider shall inform parents of the types of animals permitted at the facility.

(2) All animals at the facility shall be clean and free of obvious disease or health problems that could adversely affect children.

(3) All animals at the facility shall have current immunizations for all vaccine preventable diseases that are transmissible to humans. The center shall have documentation of the vaccinations.

(4) There shall be no animal on the premises that has a history of dangerous, attacking, or aggressive behavior, or a history of biting even one person.

(5) ~~[Children]~~ Infants, toddlers, and preschoolers shall not assist with the cleaning of animals or animal cages, pens, or equipment.

(6) If a school age child assists in the cleaning of animals or animal equipment, the child shall wash his or her hands immediately after cleaning the animal or equipment.

~~(6)~~(7) There shall be no animals or animal equipment in food preparation or eating areas.

~~(7)~~(8) Children shall not handle reptiles or amphibians.

R430-100-23. Diapering.

If the center diapers children, the following applies:

(1) Caregivers shall change children's diapers at a diaper changing station. Diapers shall not be changed on surfaces used for any other purpose.

(2) Each diapering station shall be equipped with railings to prevent a child from falling when being diapered.

(3) Caregivers shall not leave children unattended on the diapering surface.

(4) The diapering surface shall be smooth, waterproof, and in good repair.

(5) The provider shall post diapering procedures at each diapering station and ensure that they are followed.

(6) Caregivers shall clean and sanitize the diapering surface after each diaper change.

(7) Caregivers shall wash their hands before and after each diaper change.

(8) Caregivers shall place soiled disposable diapers in a container that has a plastic lining and a tightly fitting lid.

(9) The provider shall daily clean and sanitize containers where wet and soiled diapers are placed.

(10) If cloth diapers are used:

(a) they shall not be rinsed at the center; and

(b) after a diaper change, the caregiver shall place the cloth diaper directly into a leakproof container that is inaccessible to children and labeled with the child's name, or a leakproof diapering service container.

(11) Caregivers shall change children's diapers promptly when they are wet or soiled, and shall check diapers at least once every two hours.

(12) Caregivers shall keep a written record daily for each infant and toddler documenting their diaper changes. The record shall be completed within an hour of each diaper change, and shall include the child's name, the time of the diaper change, and whether the diaper was dry, wet, soiled, or both.

(13) Care givers whose designated responsibility includes the care of diapered children shall not prepare food for children or staff outside of the classroom area used by the diapered children.

R430-100-24. Infant and Toddler Care.

If the center cares for infants or toddlers, the following applies:

(1) The provider shall not mix infants and toddlers with older children, unless there are 8 or fewer children present ~~[at the center]~~ in the group.

(2) Infants and toddlers shall not use outdoor play areas at the same time as older children unless there are 8 or fewer children present in the group.

(3) If an infant is not able to sit upright and hold their own bottle, a caregiver shall hold the infant during bottle feeding. Bottles shall not be propped.

(4) The provider shall clean and sanitize high chair trays prior to each use.

(5) The provider shall cut solid foods for infants into pieces no larger than 1/4 inch in diameter. The provider shall cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.

(6) Baby food, formula, and breast milk that is brought from home for an individual child's use must be:

(a) labeled with the child's name;

(b) labeled with the date and time of preparation or opening of the container, such as a jar of baby food;

(c) kept refrigerated if needed; and

(d) discarded within 24 hours of preparation or opening, except that powdered formula or dry foods which are opened, but are not mixed, are not considered prepared.

(7) Formula and milk, including breast milk, shall be discarded after feeding, or within two hours of initiating a feeding.

(8) To prevent burns, heated bottles shall be shaken and tested for temperature before being fed to children.

(9) Pacifiers, bottles, and non-disposable drinking cups shall be labeled with each child's name, and shall not be shared.

(10) Only one infant or toddler shall occupy any one piece of equipment at any time, unless the equipment has individual seats for more than one child.

(11) Infants shall sleep in equipment designed for sleep such as a crib, bassinet, porta-crib or play pen. Infants shall not be placed to sleep on mats or cots, or in bouncers, swings, car seats, or other similar pieces of equipment.

(12) Cribs must:

(a) have tight fitting mattresses;

(b) have slats spaced no more than 2-3/8 inches apart;

(c) have at least 20 inches from the top of the mattress to the top of the crib rail; and

(d) not have strings, cords, ropes, or other entanglement hazards strung across the crib rails.

(13) Infants shall not be placed on their stomachs for sleeping, unless there is documentation from a health care provider for treatment of a medical condition.

(14) Each infant and toddler shall follow their own pattern of sleeping and eating.

(15) Caregivers shall keep a written record daily for each infant documenting their eating and sleeping patterns. The record shall be completed within an hour of each feeding or nap, and shall include the child's name, the food and beverages eaten, and the times the child slept.

(16) Walkers with wheels are prohibited.

(17) Infants and toddlers shall not have access to objects made of styrofoam.

(18) Caregivers shall respond as promptly as possible to infants and toddlers who are in emotional distress due to conditions such as hunger, fatigue, wet or soiled diapers, fear, teething, or illness.

(19) Awake infants and toddlers shall receive positive physical stimulation and positive verbal interaction with a caregiver at least once every 20 minutes.

(20) Awake infants and toddlers shall not be confined for more than 30 minutes in one piece of equipment, such as swings, high chairs, cribs, play pens, or other similar pieces of equipment.

(21) Mobile infants and toddlers shall have freedom of movement in a safe area.

(22) To stimulate their healthy development, there shall be safe toys accessible to infants and toddlers. There shall be enough toys for each child in the group to be engaged in play with toys.

(23) All toys used by infants and toddlers shall be cleaned and sanitized:

(a) weekly;

(b) after being put in a child's mouth before another child plays with it; and

(c) after being contaminated by body fluids.

KEY: child care facilities, child care, child care centers

Date of Enactment or Last Substantive Amendment: ~~July 1, 2009~~ 2012

Notice of Continuation: August 13, 2007

Authorizing, and Implemented or Interpreted Law: 26-39

Human Services, Substance Abuse and Mental Health, State Hospital

R525-2

Patient Rights

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35589

FILED: 01/03/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update the format of the rule by adding the statutory rulemaking authority and purpose of the rule. Also, the amendment removes irrelevant language from the rule.

SUMMARY OF THE RULE OR CHANGE: The changes add the statutory rulemaking authority and purpose of the rule; and remove irrelevant language from the rule. The Utah State Hospital does not perform surgery, therefore, consent forms for surgical procedures are not necessary.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-15-606

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Because this amendment is formatting and procedural changes only, there is no cost or savings to the state budget.

◆ **LOCAL GOVERNMENTS:** Because this amendment is formatting and procedural changes only, there is no cost or savings to local government.

◆ **SMALL BUSINESSES:** Because this amendment is formatting and procedural changes only, there is no cost or savings to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because this amendment is formatting and procedural changes only, there is no cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this amendment is formatting and procedural changes only, there are no compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses because this amendment is only making formatting and procedural changes to this rule.

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

HUMAN SERVICES
SUBSTANCE ABUSE AND MENTAL HEALTH,
STATE HOSPITAL
UTAH STATE HOSPITAL
PROVO, UT 84603-0270
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
◆ L Ray Winger by phone at 801-538-4319, by FAX at 801-538-9892, or by Internet E-mail at raywinger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2012

AUTHORIZED BY: Lana Stohl, Director

R525. Human Services, Substance Abuse and Mental Health, State Hospital.**R525-2. Patient Rights.****R525-2-1. Authority and Purpose.**

(1) This rule is adopted under the authority of Section 62A-15-606.

(2) The purpose of this rule is to explain patient rights for patients at the Utah State Hospital.

R525-2-[1]2. Patients and Family Are Informed of Rights.

Patients, and when appropriate, family members are informed of their rights and the means by which these rights are protected and exercised.

R525-2-[2]3. Admission Status.

Patients, and when appropriate, family members have their admission status explained to them and to have the provisions of the law pertaining to their admission.

R525-2-[3]4. Consent Forms.

A written, dated, and signed consent form is obtained from the patient, and when appropriate, the patient's family or legal guardian for participation in research projects and for use or performance of:

- ~~A. surgical procedures;~~
- ~~B. (1) electroconvulsive therapy;~~
- ~~C. (2) unusual medications;~~
- ~~D. (3) audiovisual equipment;~~
- ~~E. (4) other procedures where consent is required by law.~~

R525-2-[4]5. Patient Advocate.

A Hospital Patient Advocate is provided to assist patients and, when appropriate family members, and direct their concerns to the appropriate person/agency.

R525-2-[5]6. Patient May Deny Family Members Access to Treatment Information.

Adult patients, who do not have a court-appointed legal guardian, may exclude family members from their treatment information.

KEY: patient rights

Date of Enactment or Last Substantive Amendment: ~~May 25, 1998~~ **2012**

Notice of Continuation: May 19, 2008

Authorizing, and Implemented or Interpreted Law: 62A-15-606

**Human Services, Substance Abuse
and Mental Health, State Hospital
R525-3
Medication Treatment of Patients**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35590

FILED: 01/03/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this filing is to: 1) update the format of the rule by adding the statutory rulemaking authority and purpose of the rule; and 2) revise the language of the rule to bring it into compliance with the governing statute.

SUMMARY OF THE RULE OR CHANGE: The changes: 1) add the statutory rulemaking authority and purpose of the rule; and 2) edit the consent language to bring the rule into compliance with statute.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-15-606 and Section 62A-15-704

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** Because this amendment is correcting the formatting of the rule and procedural editing of the patient consent language for statutory compliance, there is no cost or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** Because this amendment is correcting the formatting of the rule and procedural editing of the patient consent language for statutory compliance, there is no cost or savings to local government.
- ◆ **SMALL BUSINESSES:** Because this amendment is correcting the formatting of the rule and procedural editing of the patient consent language for statutory compliance, there is no cost or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because this amendment is correcting the formatting of the rule and procedural editing of the patient consent language for statutory compliance, there is no cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this amendment is correcting the formatting of the rule and procedural editing of the patient consent language for statutory compliance, there is no compliance cost for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses by this amendment because this amendment is limited to format and procedural changes only.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
SUBSTANCE ABUSE AND MENTAL HEALTH,
STATE HOSPITAL

UTAH STATE HOSPITAL
 PROVO, UT 84603-0270
 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
 ♦ L Ray Winger by phone at 801-538-4319, by FAX at 801-538-9892, or by Internet E-mail at raywinger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2012

AUTHORIZED BY: Lana Stohl, Director

R525. Human Services, Substance Abuse and Mental Health, State Hospital.

R525-3. Medication Treatment of Patients.

R525-3-1. Authority and Purpose.

(1) This rule is adopted under the authority of Section 62A-15-606.

(2) The purpose of this rule is to provide guidance on the medication treatment of patients as required by 62A-15-704(3).

R525-3-[1]2. Medication as Part of Treatment.

Utah State Hospital (USH) offers medication as part of treatment for patients.

R525-3-[2]3. Patients May Refuse Medication Treatment.

Patients have the right to refuse medication treatment.

R525-3-[3]4. Clinical Medication Review.

In the event that a patient refuses medication treatment, USH staff shall hold a clinical medication review to determine if medication treatment is required as part of the patient's treatment.

R525-3-[4]5. Patient/Legal Guardian Shall Attend Review.

The patient/legal guardian shall be afforded the opportunity to attend the review and address the issue of medication treatment.

R525-3-[5]6. Medication Review Committee to Render a Decision.

The medication review committee shall render a decision with respect to whether medication is a requirement of treatment and shall inform the patient/legal guardian of that decision.

R525-3-[6]7. The Patient May Appeal the Decision.

The patient/legal guardian shall be afforded the opportunity to appeal any decision and have the case reviewed by the Hospital Clinical Director/designee.

R525-3-[7]8. Hospital Clinical Director/Designee Shall Review the Case.

The Hospital Clinical Director/designee shall review the appeal and render a decision with respect to whether or not the patient is required to take medication as part of their treatment.

R525-3-[8]9. Periodic Reviews.

Patients medicated pursuant to a medication review are periodically evaluated to determine if medication treatment continues to be a requirement of their treatment.

R525-3-[9]10. Medication Treatment of Minors.

Medication treatment of minor children is conducted only in agreement with the child and[~~the~~] the parent/legal guardian.

R525-3-[10]11. Electroconvulsive Therapy.

Electroconvulsive therapy is provided upon consent of the patient/legal guardian and may be provided by other hospitals that are equipped and staffed to provide safe and effective electroconvulsive therapy and recovery.

KEY: medication treatment

Date of Enactment or Last Substantive Amendment: [~~May 25, 1998~~]2012

Notice of Continuation: May 19, 2008

Authorizing, and Implemented or Interpreted Law: 62A-15-606; 62A-15-704(3)

Human Services, Substance Abuse
 and Mental Health, State Hospital
R525-5
 Background Checks

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 35591

FILED: 01/03/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update the format of the rule by adding the statutory rulemaking authority and purpose of the rule.

SUMMARY OF THE RULE OR CHANGE: This change adds the statutory rulemaking authority and purpose of the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-15-606

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** Because this amendment is formatting only, there is no cost or savings to the state budget.

♦ LOCAL GOVERNMENTS: Because this amendment is formatting only, there is no cost or savings to local government.

♦ SMALL BUSINESSES: Because this amendment is formatting only, there is no cost or savings to small businesses.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Because this amendment is formatting only, there is no cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this amendment is formatting only, there is no compliance cost for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses because this amendment is simply adding the statutory rulemaking authority and purpose statements to the rule.

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

HUMAN SERVICES
SUBSTANCE ABUSE AND MENTAL HEALTH,
STATE HOSPITAL
UTAH STATE HOSPITAL
PROVO, UT 84603-0270
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
♦ L Ray Winger by phone at 801-538-4319, by FAX at 801-538-9892, or by Internet E-mail at raywinger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2012

AUTHORIZED BY: Lana Stohl, Director

R525. Human Services, Substance Abuse and Mental Health, State Hospital.

R525-5. Background Checks.

R525-5-1. Authority and Purpose.

(1) This rule is adopted under the authority of Section 62A-15-606.

(2) The purpose of this rule is to explain the use of background checks for new employees and volunteers at the Utah State Hospital.

R525-5-[H]2. Background Checks Are Completed on All New Employees and Volunteers.

Background checks, which may include fingerprinting and BCI inquiries, are completed on all newly hired employees and volunteers who will be performing volunteer services for an extended period of time.

R525-5-[2]3. Information Is Used for Employment/Volunteer Service Placement.

Background information shall be used to determine appropriateness for employment or volunteer services.

KEY: background checks

Date of Enactment or Last Substantive Amendment: [~~May 25, 1998~~]2012

Notice of Continuation: May 19, 2008

Authorizing, and Implemented or Interpreted Law: 62A-15-606

Human Services, Substance Abuse and Mental Health, State Hospital **R525-6** Prohibited Items and Devices

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35593

FILED: 01/03/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update the format of the rule by adding the statutory rulemaking authority and purpose of the rule.

SUMMARY OF THE RULE OR CHANGE: This change adds the statutory rulemaking authority for this rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-15-606 and Subsection 62A-15-603(3) and Subsection 76-8-311.1(2)(a) and Subsection 76-8-311.3(2)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: Because this amendment is formatting only, there is no cost or savings to the state budget.

♦ LOCAL GOVERNMENTS: Because this is formatting only, there is no cost or savings to local government.

♦ SMALL BUSINESSES: Because this amendment is formatting only, there is no cost or savings to small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Because this is formatting only, there is no cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this amendment is formatting only, there is no compliance cost for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses because this amendment only adds the statutory rulemaking authority.

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

HUMAN SERVICES
SUBSTANCE ABUSE AND MENTAL HEALTH,
STATE HOSPITAL
UTAH STATE HOSPITAL
PROVO, UT 84603-0270
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
◆ L Ray Winger by phone at 801-538-4319, by FAX at 801-538-9892, or by Internet E-mail at raywinger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2012

AUTHORIZED BY: Lana Stohl, Director

R525. Human Services, Substance Abuse and Mental Health, State Hospital.

R525-6. Prohibited Items and Devices.

R525-6-1. Authority.

(1) This rule establishes secure areas on the Utah State Hospital campus and procedures for securing prohibited items and devices as authorized by Subsection 76-8-311.3(2).

(2) This rule is promulgated under authority of section 62A-15-606.

R525-6-2. Establishment of Secure Areas.

(1) Pursuant to Subsections 62A-15-603(3) and 76-8-311.3(2), the following buildings of the Utah State Hospital are established as secure areas:

- (a) Forensic Mental Health Facility;
- (b) Lucy Beth Rampton Building;
- (c) Beesley Building;
- (d) MS Building;
- (e) Youth Center; and

(f) any building constructed on the Utah State Hospital campus to replace or expand these buildings that perform similar functions of the above listed buildings.

R525-6-3. Items and Devices Prohibited from Secure Areas.

(1) Pursuant to Subsections 76-8-311.1(2)(a) and 76-8-311.3(2), all weapons, contraband, controlled substances, ammunition, items that implement escape, explosives, spirituous or fermented liquors, firearms, or any devices that are normally considered to be weapons are prohibited from entry beyond the secure storage lockers in the foyers of each building listed above.

R525-6-4. Storage of Prohibited Items and Devices.

(1) The public is notified of the availability of secure storage lockers at the entrance of the Utah State Hospital campus. Directions for use of the storage lockers are provided at or near the entrance of each of the above listed buildings.

KEY: weapons, state hospital, secure areas, prohibited items and devices

Date of Enactment or Last Substantive Amendment: [~~May 1, 2008~~]**2012**

Authorizing, and Implemented or Interpreted Law: 62A-15-603(3); ~~62A-15-606~~; 76-8-311.1(2)(a); 76-8-311.3(2)

**Human Services, Substance Abuse
and Mental Health, State Hospital
R525-7
Complaints/Suggestions/Concerns**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35594

FILED: 01/03/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to: 1) update the format of the rule by adding the statutory rulemaking authority and purpose of the rule; and 2) remove an outdated citation.

SUMMARY OF THE RULE OR CHANGE: The changes: 1) add the statutory rulemaking authority and purpose of the rule; and 2) remove an outdated citation.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-15-606

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Because this amendment is formatting only, there is no cost or savings to the state budget.

♦ LOCAL GOVERNMENTS: Because this amendment is formatting only, there is no cost or savings to the local governments.

♦ SMALL BUSINESSES: Because this amendment is formatting only, there is no cost or savings to small businesses.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Because this amendment is formatting only, there is no cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this amendment is formatting only, there is no compliance cost for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses because this amendment only adds the statutory rulemaking authority and removes an outdated citation.

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

HUMAN SERVICES
SUBSTANCE ABUSE AND MENTAL HEALTH,
STATE HOSPITAL
UTAH STATE HOSPITAL
PROVO, UT 84603-0270
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
♦ L Ray Winger by phone at 801-538-4319, by FAX at 801-538-9892, or by Internet E-mail at raywinger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2012

AUTHORIZED BY: Lana Stohl, Director

R525. Human Services, Substance Abuse and Mental Health, State Hospital.

R525-7. Complaints/Suggestions/Concerns.

R525-7-1. Authority and Purpose.

(1) This rule is promulgated under the authority of Section 62A-15-606.

(2) The purpose of this rule is explain the process for patients and their family members to register complaints, suggestions and concerns.

R525-7-[1]2. Patient and Family Members May Register Complaints.

Patients and/or their family members may register a complaint/suggestion/concern about the hospital to any hospital staff member.

R525-7-[2]3. Complaints/Suggestions/Concerns Are Reviewed.

Complaints/suggestions/concerns are reviewed by the Hospital Suggestion Committee and forwarded to the appropriate person/agency for response.

R525-7-[3]4. The Suggestion Committee Shall Respond.

The person submitting the complaint/suggestion/concern shall receive a response from the Suggestion Committee.

R525-7-[4]5. No Reprisal to Person Making Complaint.

Patients, family members, and members of the public may pursue complaints against the hospital without reprisal.

KEY: complaints, suggestions, concerns

Date of Enactment or Last Substantive Amendment: [~~May 25, 1998~~]**2012**

Notice of Continuation: May 19, 2008

Authorizing, and Implemented or Interpreted Law: [~~62A-12-204~~]**62A-15-606**

Human Services, Substance Abuse and Mental Health, State Hospital **R525-8** Forensic Mental Health Facility

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35596

FILED: 01/03/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update the format of the rule by adding the statutory rulemaking authority and purpose of the rule.

SUMMARY OF THE RULE OR CHANGE: This change adds the statutory rulemaking authority and purpose of the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-15-606 and Subsection 62A-15-902(2)(c)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: Because this amendment is formatting only, there is no cost or savings to the state budget.

♦ LOCAL GOVERNMENTS: Because this amendment is formatting only, there is no cost or savings to local governments.

♦ SMALL BUSINESSES: Because this amendment is formatting only, there is no cost or savings to small businesses.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Because this amendment is formatting only, there is no cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this amendment is formatting only, there is no compliance cost for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses because this amendment is only adding the required statutory rulemaking authority.

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

HUMAN SERVICES
SUBSTANCE ABUSE AND MENTAL HEALTH,
STATE HOSPITAL
UTAH STATE HOSPITAL
PROVO, UT 84603-0270
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
♦ L Ray Winger by phone at 801-538-4319, by FAX at 801-538-9892, or by Internet E-mail at raywinger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2012

AUTHORIZED BY: Lana Stohl, Director

R525. Human Services, Substance Abuse and Mental Health, State Hospital.

R525-8. Forensic Mental Health Facility.

R525-8-1. Authority and Purpose.

(1) This rule is adopted under the authority of Section 62A-15-606.

(2) The purpose of this rule is to explain the allocation of beds for the Forensic Mental Health Facility at the Utah State Hospital.

R525-8-[1]2. Forensic Mental Health Facility.

(1) Pursuant to the requirements of [UCA]Section 62A-15-902(2)(c), the forensic mental health facility allocates beds to serve the following categories:

(a) prison inmates displaying mental illness, as defined in [UCA]Section 62A-15-602, necessitating treatment in a secure mental health facility;

(b) criminally adjudicated persons found guilty and mentally ill or undergoing evaluation for mental illness under [UCA]Title 77, Chapter 16a;

(c) criminally adjudicated persons found guilty and mentally ill or undergoing evaluation for mental illness under [UCA]Title 77, Chapter 16a, who are also mentally retarded;

(d) persons found by a court to be incompetent to proceed in accordance with [UCA]Title 77, Chapter 15, or not guilty by reason of insanity under [UCA]Title 77, Chapter 14; and

(e) persons who are civilly committed to the custody of a local mental health authority in accordance with [UCA]Title 62A, Chapter 15, Part 6, and who may not be properly supervised by the Utah State Hospital because of a lack of necessary security, as determined by the superintendent or his designee.

(2) Additionally, the beds serve the following categories:

(a) persons undergoing an evaluation to determine competency to proceed under [UCA]Title 77, Chapter 15; and

(b) persons committed to the state hospital as a condition of probation under [UCA]Subsection 77-18-1(13).

R525-8-[2]3. Bed Allocation.

Beds are allocated based on current psychiatric need and legal status. Highest priority shall be given to those cases which are specifically required to be admitted to the Utah State Hospital by Utah law.

R525-8-[3]4. No Admission Because of Capacity.

When capacity in the forensic mental health facility has been met, the hospital shall not admit any persons to the forensic mental health facility until a bed becomes available. In such an event the hospital will work cooperatively with the court to find a resolution.

KEY: forensic, mental health, facilities

Date of Enactment or Last Substantive Amendment: [~~June 15, 2007~~]2012

Notice of Continuation: April 26, 2011

Authorizing, and Implemented or Interpreted Law: 62A-15-902(2)(c); 62A-15-606

Pardons (Board of), Administration

R671-305

Notification of Board Decision

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 35551

FILED: 12/19/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is for clarification on who will receive notification of hearing decisions and for what type of decisions the agency provides notification.

SUMMARY OF THE RULE OR CHANGE: This change clarifies who will receive notification of hearing decisions and for what type of decisions the agency provides notification.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 77-27-9.7

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This rule change has no effect on the state budget, as it only clarifies the circumstances surrounding decision notification.
- ◆ **LOCAL GOVERNMENTS:** This rule change has no effect on any local government, as it only clarifies the circumstances surrounding decision notification.
- ◆ **SMALL BUSINESSES:** This rule change has no effect on any small businesses, as it only clarifies the circumstances surrounding decision notification.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No other entity will be affected by this minor rule change, as it only clarifies the circumstances surrounding decision notification.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for any affected party, as it only clarifies the circumstances surrounding decision notification.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--No business impact.

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

PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ John Green by phone at 801-261-6464, by FAX at 801-261-6481, or by Internet E-mail at jagreen@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2012

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2012

AUTHORIZED BY: Clark Harms, Chairman

R671. Pardons (Board of), Administration.

R671-305. Notification of Board Decision.

R671-305-1. Notification of Board's Decision.

(a) ~~[The d]~~Decisions of the Board ~~[will]~~shall be reached by a majority vote and reduced to ~~[writing]~~a written decision and order~~[, including a rationale for the decision]~~. Copies of the ~~[written]~~decision and order ~~[are]~~shall be sent to the offender, and the ~~[institution and Field Operations]~~Department of Corrections. The Board ~~[will]~~shall publish ~~[written]~~results of Board decisions.

~~[The Board should take reasonable steps to assured that the offender has been notified before the information is released to the public.]~~(b) The Board shall also provide a Rationale for Decisions and Orders for all Original Hearings; Re-Hearings and for Parole Violation Hearings where a decision and order for parole, termination or expiration has been made.

KEY: government hearings

Date of Enactment or Last Substantive Amendment: ~~[November 21, 2002]~~2012

Notice of Continuation: ~~[July 25, 2007]~~

Authorizing, and Implemented or Interpreted Law: 77-27-9.7

Public Safety, Peace Officer Standards and Training **R728-408**

POST Academy and the Emergency Vehicle Operations Range are Secure Facilities

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 35568

FILED: 12/21/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule was intended to regulate the possession of firearms in the Peace Officer Standards and Training Facility. Since the original rule was adopted, the training facility has moved into a mixed purpose building with more open public access. The change in facility has made this rule obsolete and it is the intention of the division to repeal this rule.

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

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 76-8-311.1

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This rule regulates the possession of a firearm in the Peace Officer Standards and Training

Facility. Since the original rule was adopted, the training facility has moved into a mixed purpose building with more open public access. The change in facility has made this rule obsolete. During the history of this rule, there was no cost associated with its implementation or maintenance. The repeal of this rule will not require that any action be taken on the part of state government and so the repeal of this rule will have no anticipated cost or saving to state government.

◆ LOCAL GOVERNMENTS: This rule regulates the possession of a firearm in the Peace Officer Standards and Training Facility. Since the original rule was adopted, the training facility has moved into a mixed purpose building with more open public access. The change in facility has made this rule obsolete. During the history of this rule, there was no cost associated with its implementation or maintenance. The repeal of this rule will not require that any action be taken on the part of local government and so the repeal of this rule will have no anticipated cost or saving to local government.

◆ SMALL BUSINESSES: This rule regulates the possession of a firearm in the Peace Officer Standards and Training Facility. Since the original rule was adopted the training facility has moved into a mixed purpose building with more open public access. The change in facility has made this rule obsolete. During the history of this rule there was no cost associated with its implementation or maintenance. The repeal of this rule will not require that any action be taken on the part of small businesses and so the repeal of this rule will have no anticipated cost or saving to small business.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule regulates the possession of a firearm in the Peace Officer Standards and Training Facility. Since the original rule was adopted, the training facility has moved into a mixed purpose building with more open public access. The change in facility has made this rule obsolete. During the history of this rule, there was no cost associated with its implementation or maintenance. The repeal of this rule will not require that any action be taken on the part of any person and so the repeal of this rule will have no anticipated cost or saving to any person.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule is being repealed. The repeal will not require any action be taken on the part of any person. There are no compliance requirements, therefore there are no compliance costs associated with the repeal of this rule.

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

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S

SANDY, UT 84070
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
◆ Kelly Sparks by phone at 801-256-2321, by FAX at 801-256-0600, or by Internet E-mail at ksparks@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 02/22/2012

AUTHORIZED BY: Scott Stephenson, Director

R728. Public Safety, Peace Officer Standards and Training.
~~[R728-408. POST Academy and the Emergency Vehicle Operations Range are Secure Facilities.~~

R728-408-1. Authority.
~~_____The authority for this rule is authorized under UCA Section 76-8-311.1(1)(e)(2).~~

R728-408-2. Purpose.
~~_____To provide for public safety within the training facilities of Peace Officer Standards and Training, and regulate the possession of firearms at the POST Academy and Emergency Vehicle Operations Range.~~

R728-408-3. Declaration.
~~_____The POST Academy and Emergency Vehicle Operations Range are declared as secure facilities pursuant to UCA Section 76-8-311.1(1)(e)(2).~~

R728-408-4. Possession of Firearms.
~~_____No firearms may be brought into the POST Academy and Emergency Vehicle Operations Range. Lockers shall be provided at the main office of the POST Academy and the Instructors Office at the Emergency Vehicle Operations Range. Any person carrying a firearm must surrender the firearm and secure it in a POST-provided locker upon entering the POST Academy and Emergency Vehicle Operations Range.~~

R728-408-5. Applicability of Rule.
~~_____This rule shall not apply to law enforcement officers and federal officers as defined by UCA Sections 53-13-103(1)(b), 53-13-106(1)(a).~~

~~**KEY: firearms, emergency vehicle operations range, secure facilities, law enforcement officers**~~

~~**Date of Enactment or Last Substantive Amendment: April 10, 2002**~~

~~**Notice of Continuation: October 11, 2006**~~

~~**Authorizing, and Implemented or Interpreted Law: 76-8-311; 53-13-103; 53-13-106]**~~

**Workforce Services, Employment
Development
R986-700-713
Amount of CC Payment**

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 35586
FILED: 12/29/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to reflect current experience and budget issues.

SUMMARY OF THE RULE OR CHANGE: The Department currently offers an enhanced child care payment to clients who participate more than 172 hours per month. The Office of Child Care intends to use the savings for after school summer programs which have been identified as being of greater need.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 35A-1-104 and Subsection 35A-1-104(4) and Subsection 35A-3-310(3)

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 local government.
- ◆ **SMALL BUSINESSES:** There will be no costs to small businesses to comply with these changes because this is a federally-funded program.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no costs to persons other than small businesses or local governmental entities to comply with these changes because this is a federally-funded program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no costs to affected persons to comply with these changes because there are no costs or fees associated with these proposed changes. Some clients may receive a smaller subsidy beginning March 1 but the savings will be used to offer summer care.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with these changes for any affected persons because this is a federally-funded program and there are no fees or costs associated

with these proposed changes. 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 02/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 03/01/2012

AUTHORIZED BY: Kristen Cox, Executive Director

R986. Workforce Services, Employment Development.

R986-700. Child Care Assistance.

R986-700-713. Amount of CC Payment.

~~[(1)]~~ CC will be paid at the lower of the following levels:

~~[(a)1]~~ the maximum monthly local market rate as calculated using the Local Market Survey. The Local Market Survey is conducted by the Department and based on the provider category and age of the child. The Survey results are available for review at any Department office through the Department web site on the Internet; or

~~[(b)2]~~ the rate established by the provider for services; or

~~[(e)3]~~ the unit cost multiplied by the number of hours approved by the Department. The unit cost is determined by dividing the maximum monthly local market rate by 137.6 hours.

~~[(2) An enhanced CC payment is available to clients who are participating more than 172 hours per month. The enhanced subsidy cannot exceed \$100 more than the maximum monthly local market rate for the type of provider used by the client and in no event can an enhanced subsidy payment exceed the accredited center rate for infant care. A two-parent family receiving CC for education or training activities is not eligible for the enhanced CC subsidy.]~~

KEY: child care

Date of Enactment or Last Substantive Amendment:

~~[November 1, 2011]~~ 2012

Notice of Continuation: September 8, 2010

Authorizing, and Implemented or Interpreted Law: 35A-3-310

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-Day (EMERGENCY) RULE** when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-Day RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-Day RULE** including the name of a contact person, justification for filing a **120-Day RULE**, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (.) indicates that unaffected text was removed to conserve space.

A **120-Day RULE** is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A **120-Day RULE** is effective for 120 days or until it is superseded by a permanent rule.

Because **120-Day RULES** are effective immediately, the law does not require a public comment period. However, when an agency files a **120-Day RULE**, it usually files a **PROPOSED RULE** at the same time, to make the requirements permanent. Comments may be made on the **PROPOSED RULE**. Emergency or **120-Day RULES** are governed by Section 63G-3-304; and Section R15-4-8.

Capitol Preservation Board (State),
Administration
R131-13
Health Reform - Health Insurance
Coverage in State Contracts -
Implementation

NOTICE OF 120-DAY (EMERGENCY) RULE
DAR FILE NO.: 35611
FILED: 01/03/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to comply with the new provisions of Section 63C-9-403 enacted by H.B. 128 of the 2011 General Session and state statutes.

SUMMARY OF THE RULE OR CHANGE: H.B. 128 of the 2011 General Session amended the benchmark requirements for health insurance coverage in state contracts. Other changes to the rule are to comply with state statutes. (DAR NOTE: A corresponding proposed amendment to Rule R131-13 is under DAR No. 35610 in this issue, January 15, 2012, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63C-9-403 and Section 63G-3-304

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

JUSTIFICATION: The specific reason an emergency rule process is needed is the bill requires the rule to be in effect on 01/03/2012. The regular rulemaking process would not allow for the rule to be in effect before the required date. In order to comply with the bill, an emergency rulemaking process is required.

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** Enactment of this amendment simply complies with state statute and has no fiscal impact.
- ◆ **LOCAL GOVERNMENTS:** No cost or savings are anticipated for local governments with this amendment to the rule. No new requirements were created with this amendment that impact local governments.
- ◆ **SMALL BUSINESSES:** Enactment of this amendment simply complies with state statute and has no fiscal impact.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Enactment of this amendment simply complies with state statute and has no fiscal impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Enactment of this amendment simply complies with state statute and has no fiscal impact.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As stated, the statute itself created any fiscal impacts. The amendment to this rule does not add additional burdens than

already provided by the statute. This rule by itself will not have a fiscal impact on businesses because it merely reiterates the statutory requirements.

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
◆ Chiarina Gleed by phone at 801-538-3240, by FAX at 801-538-3313, or by Internet E-mail at cgleed@utah.gov

EFFECTIVE: 01/03/2012

AUTHORIZED BY: Allyson Gamble, Executive Director

**R131. Capitol Preservation Board (State), Administration.
R131-13. Health Reform -- Health Insurance Coverage in State
Contracts -- Implementation.**

R131-13-1. Purpose.

The purpose of this rule is to comply with the provisions of Section 63C-9-403.

R131-13-2. Authority.

This rule is authorized under Subsection 63C-9-301(3)(a) whereby the Capitol Preservation Board may make rules to govern, administer, and regulate the capitol hill complex, capitol hill facilities, and capitol hill grounds by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as well as Section 63C-9-403 that requires this rule related to health insurance provisions in certain design and construction contracts.

R131-13-3. Definitions.

(1) Except as otherwise stated in this rule, terms used in this rule are defined in Section 63C-9-403.

(2) In addition:

(a) "Board" means the Capitol Preservation Board established pursuant to Section 63C-9-201.

(b) "Executive Director" means the executive director of the Capitol Preservation Board including, unless otherwise stated, the executive director's duly authorized designee.

(c) "Employee(s)" ~~[is as defined in Subsection 63C-9-403(1)(a) and includes only those employees that live and work in the state of Utah along with their dependents. "Employee" for purposes of this rule, shall not be construed as to be broader than the use of the term employee for purposes of state of Utah Workers' Compensation laws along with their dependents.]~~ means an

"employee," "worker," or "operative" as defined in Section 34A-2-104 who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance which may not exceed the first day of the calendar month following 90 days from the date of hire.

(d) "State" means the state of Utah.

R131-13-4. Applicability of Rule.

(1) Except as provided in Subsection R131-13-4(2) below, R131-13 applies to all design or construction contracts entered into by the Board or the executive director, or on behalf of the Board, on or after July 1, 2009, and

(a) applies to a prime contractor if the prime contract is in the amount of \$1,500,000 or greater; and

(b) applies to a subcontractor if the subcontract, at any tier, is in the amount of \$750,000 or greater.

(2) Rule R131-13 does not apply if:

(a) the application of this Rule R131-13 jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(3) This Rule R131-13 does not apply to a change order as defined in Section 63G-6-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection R131-13-4(1).

(4) A person who intentionally uses change orders or contract modifications to circumvent the requirements of Subsection R131-13-4(1) is guilty of an infraction.

R131-13-5. Contractor to Comply with Section 63C-9-403.

All contractors and subcontractors that are subject to the requirements of Section 63C-9-403 shall comply with all the requirements, penalties and liabilities of Section 63C-9-403.

R131-13-6. Not Basis for Protest or Suspend, Disrupt, or Terminate Design or Construction.

(1) The failure of a contractor or subcontractor to provide qualified health insurance coverage as required by this Rule R131-13 or Section 63C-9-403:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Section 63G-6-801 or any other provision in Title 63G, Chapter 6, Part 8, Legal and Contractual Remedies; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt or terminate the design or construction.

R131-13-7. Requirements and Procedures a Contractor Must Follow.

A contractor, including consultants and designers, must comply with the following requirements and procedures in order to demonstrate compliance with Section 63C-9-403.

(1) Demonstrating Compliance with Health Insurance Requirements. The following requirements must be met by a contractor, including consultants, designers and others under contract with the Board or the executive director that is subject to

the requirements of Rule R131-13 no later than the time the contract is entered into or renewed:

(a) demonstrate compliance by a written certification to the executive director that the contractor has and will maintain for the duration of the contract an offer of qualified health insurance coverage for the contractor's employees and the employees' dependents; and

(b) the contractor shall also provide such written certification prior to the execution of the contract, in regard to all subcontractors, including subconsultants, at any tier that are subject to the requirements of Rule R131-13.

(2) Recertification. The executive director shall have the right to request a recertification by the contractor by submitting a written request to the contractor, and the contractor shall so comply with the written request within ten working days of receipt of the written request; however, in no case may the contractor be required to demonstrate such compliance more than twice in any 12-month period.

(3) Demonstrating Compliance with Actuarially Equivalent Determination. The actuarially equivalent determination required by Subsection[s] 63C-9-403(1)(c)(~~+~~ and ~~iii~~) and defined in Section 26-40-115 is met by the contractor if the contractor provides the executive director with a written statement of actuarial equivalency from either the Utah Insurance Department; an actuary selected by the contractor; or the contractor's insurer; or an underwriter who is responsible for developing the employer group's premium rates.

For purposes of this ~~[Subsection]~~ Rule R131-13-7(3), actuarially equivalency is achieved by meeting or exceeding ~~[any of the following:~~

~~(a) As]the requirements of Section 26-40-115 which are also delineated on the DFCM website at <http://dfcm.utah.gov/downloads/Health%20Insurance%20Benchmark.pdf>], a health benefit plan and employer contribution level with a combined actuarial value at least actuarially equivalent to the combined actuarial value of the benchmark plan determined by the Children's Health Insurance Program under Subsection 26-40-106(2)(a), and a contribution level of 50% of the premium for the employee and the dependents of the employee who reside or work in the State, in which:~~

~~(i) The employer pays at least 50% of the premium for the employee and the dependents of the employee who reside or work in the State; and~~

~~(ii) for purposes of calculating actuarial equivalency under this Subsection R131-13-7(3)(a):~~

~~(A) rather than the benchmark plan's deductible, and the benchmark plan's out-of-pocket maximum based on income levels, the deductible is \$750 per individual and \$2,250 per family; and the out-of-pocket maximum is \$3,000 per individual and \$9,000 per family;~~

~~(B) dental coverage is not required; and~~

~~(C) other than Subsection 26-40-106(2)(a), the provisions of Section 26-40-106 do not apply; or~~

~~(b)(i) is a federally qualified high deductible health plan that, at a minimum, has a deductible that is either;~~

~~(A) the lowest deductible permitted for a federally-qualified high deductible health plan; or~~

~~(B) a deductible that is higher than the lowest deductible permitted for a federally qualified high deductible health plan, but~~

~~includes an employer contribution to a health savings account in a dollar amount at least equal to the dollar amount difference between the lowest deductible permitted for a federally qualified high deductible plan and the deductible for the employer offered federally qualified high deductible plan;~~

~~(ii) an out-of-pocket maximum that does not exceed three times the amount of the annual deductible; and~~

~~(iii) under which the employer pays 75% of the premium for the employee and the dependents of the employee who work or reside in the State.]~~

(4) The health insurance must be available upon the first day of the calendar month following ~~[the initial]~~ ninety days from the date of hire.

(5) Architect and Engineer Compliance Process. Architects and engineers that are subject to Rule R131-13 must demonstrate compliance with Rule R131-13 in any annual submittal. During the procurement process and no later than the execution of the contract with the architect or engineer, the architect or engineer shall confirm that their applicable subcontractors or subconsultants meet the requirements of Rule R131-13.

(6) General (Prime) Contractors Compliance Process. Contractors that are subject to Rule R131-13 must demonstrate compliance with Rule R131-13 for their own firm and any applicable subcontractors, in any pre-qualification process that may be used for the procurement. At the time of execution of the contract, the contractor shall confirm that their applicable subcontractors or subconsultants meet the requirements of Rule R131-13.

(7) Notwithstanding any prequalification process, any contract subject to Rule R131-13 shall contain a provision requiring compliance with Rule R131-13 from the time of execution and throughout the duration of the contract.

(8) Hearing and Penalties.

(a) Hearing. Any hearing for any penalty under Rule R131-13 conducted by the Board or executive director shall be conducted in the same manner as any hearing required for a suspension or debarment.

(b) Penalties that may be ~~[H]~~imposed by the Board or Executive Director. The penalties that may be imposed by the Board or executive director if a contractor, consultant, subcontractor or subconsultant, at any tier, intentionally violates the provisions of Rule R131-13 may include:

(i) a three-month suspension of the contractor or subcontractor from entering into future contracts with the State upon the first violation, regardless of which tier the contractor or subcontractor is involved with the future design and/or construction contract;

(ii) a six-month suspension of the contractor or subcontractor from entering into future contracts with the State upon the second violation, regardless of which tier the contractor or subcontractor is involved with the future design and/or construction contract;

(iii) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6-804 upon the third or subsequent violation; and

(iv) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and dependents of an employee of the contractor or

subcontractor who was not offered qualified health insurance coverage during the duration of the contract.

(c)(i) In addition to the penalties imposed above, a contractor, consultant, subcontractor or subconsultant who intentionally violates the provisions of this Rule R131-13 shall be liable to the employee for health care costs that would have been covered by qualified health insurance coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection R131-13-7(8)(c)(i) as provided in Subsection 63C-9-403(7)(a)(ii).

R131-13-8. Not Create any Contractual Relationship with any Subcontractor or Subconsultant.

Nothing in Rule R131-13 shall be construed as to create any contractual relationship whatsoever between the State, the Board, or the executive director with any subcontractor or subconsultant at any tier.

KEY: health insurance, contractors, contracts

Date of Enactment or Last Substantive Amendment:
[September 22, 2010] January 3, 2012

Authorizing, and Implemented or Interpreted Law: 63C-9-403; 63C-9-301(3)(a)

Community and Culture, Housing and
Community Development
R199-12
State Small Business Credit Initiative
Program Fund

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 35572

FILED: 12/23/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to identify procedures the Division will utilize in the issuance of loans and loan guarantees from the State Small Business Credit Initiative Program Fund.

SUMMARY OF THE RULE OR CHANGE: The rule identifies the process and procedures on how the Division will issue loan and loan guarantees to small businesses; establishes a loan loss reserve fund and a credit advisory committee; and notifies the public how the funds will be administered.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 9-4-1601 and Section 9-4-1602 and Section 9-4-1603

EMERGENCY RULE REASON AND JUSTIFICATION:
REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

JUSTIFICATION: The Division was recently awarded this contract on 09/30/2011. No administrative funds for planning and implementation could be used for this program prior to receiving the award. A requirement of the contract is to be "fully positioned within 90 days to issue the type of credit contemplated by the contract." Because this is a new program to Utah, the Division had to perform due diligence prior to forming the program for operation including site visits to other states operating similar programs, consultations with the banking and credit union committee, and consultation with the Attorney General's office. Because of the administration restriction, this work has been performed within the last 60 days allowing sufficient time for the Division to contemplate rules for the program. The rule is filed on an emergency basis to meet our federal contractual requirement.

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no anticipated cost or savings by this rule implementation. The rule requires no additional staffing or other cost structures not already contemplated by statute other than the formation of the credit advisory committee which is entirely voluntary and does not require even per diem expenses.

♦ **LOCAL GOVERNMENTS:** No anticipated cost or savings to local government through this rule. The rule will not affect local governments as they are not an eligible entity for participation.

♦ **SMALL BUSINESSES:** This program should improve the availability of credit to the small business community by providing credit enhancements to enable more issuance of credit to eligible small businesses that otherwise would not be available. Over the next six years, the program is projected to leverage the initial \$13 Million federal award into \$290 Million in credit to small businesses. Small businesses in most cases will still need to work with their local financial institution prior to being able to access the fund. This should not negatively affect them as this is a new process designed to enhance their viability and does not impede any existing avenue for small business to obtain credit.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Not affected--The program is entirely structured to work with small business in partnership with financial institutions as described in prior responses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated additional costs to affected persons as the program will dovetail with financial institution reporting requirements when loans and loan guarantees are in place. In addition, these requirements are set forth in statute rather than rule and no additional rules regarding compliance are in place.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses--The rule requires no additional burden to be placed on businesses, but rather creates a unique program to enhance the viability of business.

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

COMMUNITY AND CULTURE
HOUSING AND COMMUNITY DEVELOPMENT
ROOM 500
324 S STATE ST
SALT LAKE CITY, UT 84111-2388
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jonathan Hardy by phone at 801-538-8650, by FAX at 801-538-8888, or by Internet E-mail at jhardy@utah.gov

EFFECTIVE: 12/27/2011

AUTHORIZED BY: Gordon Walker, Director

R199. Community and Culture, Housing and Community Development.

R199-12. State Small Business Credit Initiative Program Fund.

R199-12-1. Authority.

Pursuant to Section 9-4-1601 et seq., Utah Code, the Division of Housing Community Development is the administrator of the State Small Business Credit Initiative Program Fund.

R199-12-2. Purpose.

The State Small Business Credit Initiative Program Fund provides loans and loan guarantees to encourage lending from financial institutions to eligible small businesses within the state as defined by the funding sources contributing to the Fund.

R199-12-3. Credit Advisory Committee.

The Division will establish a Credit Advisory Committee. Utah lending institutions shall submit an application of a small business borrower for private funding to the Committee. The Committee will evaluate the application provided by the lending institutions and make recommendations to the Division on the size, scope, and loan or loan loss reserve participation amount suitable for the applicant.

Additionally, the Committee will advise on application processes, underwriting criteria and other procedural elements of the Fund to ensure that program objectives are met.

R199-12-4. Eligibility.

Only those applications for funding assistance which are submitted by an eligible applicant for an eligible project shall be considered by the Division.

Eligible applicants include Small Businesses (defined as having no more than 750 employees), which:

A. applied for a credit product and were denied by a financial institution; and

B. the financial institution sponsors the application to the Fund as described in the Application Procedures; or

C. directly respond to a specific Request for Applications (RFA) published by the Division.

R199-12-5. Application Requirements.

A. Applications shall be submitted on forms published, and in accordance with the procedures outlined by the Division with the advice of the Committee. Completed applications which have been accepted for processing will be placed on the next available Committee agenda for review and recommendation.

B. The primary process for submitting proposals to the fund is as follows:

1. An Eligible Small Business must apply for a credit product at a financial institution which has signed a State Small Business Credit Initiative Program Fund Participation Agreement with the Division.

2. The small business applicant must be denied for current banking products offered by the financial institution.

3. The participating financial institution will submit a sponsorship application form, in addition to the relevant documentation and underwriting criteria, to the Division and specify the type, amount and reason for a loan participation or loan guarantee on the transaction.

4. The Committee at its discretion may interview parties involved in the transaction to further clarify any information as part of the application review prior to issuing a recommendation to the Director.

C. An applicant may respond to a specific Request for Applications issued by the Division on forms prescribed by the Division.

R199-12-6. Application Review Procedures.

A. The Committee will review applications and make recommendations on whether to fund a loan or loan guarantee at regularly scheduled review meetings as published on the Division's website.

B. The process for review of new applications for loans and loan guarantees shall be as follows:

1. Submission of an application, on or before the applicable deadline to the Division program staff for technical review and analysis.

2. Incomplete applications will be held by the staff pending submission of required information.

3. Complete applications accepted for processing will be placed on the next available review agenda.

4. At the review the Committee may either recommend:

a. denial of the application;

b. the issuance of the requested loan or loan guarantee

c. a modified issuance of a loan or loan guarantee

d. further analysis of the viability of the project through further collection of documentation prior to issuing a decision on the funding request.

5. Final recommendations of the Committee on issuance or denial of applications will be forwarded to the Director.

6. The Director may issue loans or loan guarantees after reviewing the recommendation of the Committee.

R199-12-7. Loan Loss Reserve Fund.

There is created a loan loss reserve fund to be used to secure the loan guarantees issued by the Division. The Division

may issue guarantees in an amount up to a ten to one ratio of balances within the loan loss reserve fund. Neither the State nor the Division are liable for guarantees issued beyond the balance of the reserve fund. Each participating financial institution shall be informed of this stipulation via a participation agreement with the Division prior to participating in the loan guarantee program.

R199-12-8. Procedures for Electronic Meetings.

A. These provisions govern any meeting at which one or more members of the Committee or one or more applicants appear telephonically or electronically pursuant to Section 52-4-7.8.

B. If one or more members of the Committee or one or more applicants or sponsors cannot attend a regularly scheduled Committee meeting in person, that member, applicant, or sponsor may participate in the meeting electronically or telephonically.

KEY: small business loans, loan guarantees

Date of Enactment or Last Substantive Amendment: December 27, 2011

Authorizing, and Implemented or Interpreted Law: 9-4-1601; 9-4-1602; 9-4-1603

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to remove obsolete rules from the Utah Administrative Code. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **NOTICE**. By filing a Notice, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. **NOTICES** are effective upon filing.

NOTICES are governed by Section 63G-3-305.

Administrative Services, Fleet Operations **R27-10** Identification Mark for State Motor Vehicles

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 35545
FILED: 12/16/2011

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 63A-9-601 requires that the division enact rules relating to the size and shape of identification markings, and to provide guidelines for the exemption of the markings: (1)(c) The division shall enact rules relating to the size and design of the identification mark. (5) Notwithstanding Subsection (1), the division may grant security exemptions to the identification mark and "EX" plate requirement when the division: (a) receives a request for an exemption; and (b) determines there is a substantial danger to the person to whom the vehicle is assigned if the vehicle is identified as a state vehicle.

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 received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section 63A-9-601 is still active and the

division is required to comply with the statutory language. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Gary Robertson by phone at 801-538-3792, by FAX at 801-359-0759, or by Internet E-mail at garyrobertson@utah.gov

AUTHORIZED BY: Sam Lee, Director

EFFECTIVE: 12/16/2011

Commerce, Occupational and Professional Licensing **R156-70a** Physician Assistant Practice Act Rule

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 35552
FILED: 12/19/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 70a, provides for the licensure of physician assistants. Subsection 58-1-

106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-70a-201(3) provides that the Physician Assistant Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the Division Director. This rule was enacted to clarify the provisions of Title 58, Chapter 70a, with respect to physician assistants.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in February 2007, it has been amended two times. The Division received an 08/02/2010 email from Paul Harrison, MD, in which he expressed opposition to the increase in number of physician assistants that can be supervised by a physician from two to four. Dr. Harrison believed that increasing the number of physician assistants that could be supervised by one physician would increase errors in diagnosis and treatment. The proposed amendments filed in July 2010 were as a result of statute amendments made to Title 58, Chapter 70a, in S.B. 139 during the 2010 General Session. The Physician Assistant Licensing Board and Division reviewed Dr. Harrison's written comments with extensive discussion during the Board's 09/13/2010 meeting. During the September 2010 board meeting and discussion of this matter, the Division indicated that if a supervising physician is requesting to supervise three or four physician assistants, the supervising physician must submit an explanation regarding justification on how the physician will supervise the additional physician assistants and maintain patient care and safety. During the board meeting, the Division and Board both indicated that allowing an increase in the number of physician assistants to be supervised by one physician would be helpful to the profession and especially those in rural areas. After the lengthy discussion regarding Dr. Harrison's written comment, the proposed amendments were approved with no further changes.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 70a, with respect to physician assistants. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements and provides licensees with information concerning unprofessional conduct, definitions and ethical standards relating to the profession.

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Noel Taxin by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at ntaxin@utah.gov

AUTHORIZED BY: Mark Steinagel, Director

EFFECTIVE: 12/19/2011

Insurance, Administration
R590-102
Insurance Department Fee Payment
Rule

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 35587

FILED: 12/29/2011

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 31A-3-103 requires the department to set regulatory fees and publish them as a list. The subsections referred to in the rule need to be changed from Subsection (4) and (5) to Subsection (3). This change will be made immediately.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This rule has been updated several times during the past five years. At no time has the department received written comments regarding this rule or the proposed changes made during this period of time.

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 it is specifically required by law and because it makes it easy for the public to see all the fees charged by the department and provides regular opportunities for them to make comment regarding changes to this schedule. 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: 12/29/2011

Insurance, Administration
R590-103
Security Deposits

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 35554
FILED: 12/19/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3) authorizes the commissioner to write rules to implement Title 31A of the Utah Code. Subsection 31A-2-206(17) authorizes the commissioner to write rules to implement the provisions of this section dealing with the receipt and handling of deposits and type of securities that may be qualified in the deposits.

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 by the department in the past five years regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule requires insurance companies to deposit a certain amount of money into an account to take care of claims in case they go out of business. The deposits help pay for claims, which are also covered, in part, by a guaranty association, which most companies are associated with. However, the most important use of these deposits is to help cover administrative costs of a liquidation. The rule provides guidelines that help secure that the deposits are

federally secured and the financial institution is holding the required amount. Without these safeguards, it would be very difficult to be sure that the funds are actually deposited, as required by the law. 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: 12/19/2011

Insurance, Administration
R590-121
Rate Modification Plan Rule

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 35570
FILED: 12/22/2011

**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-2-201(3) and (4), General Duties and Powers, give the commissioner authority to write rules to implement the provisions of Title 31A of the Utah Code; Section 31A-2-203, Examinations, authorizes the commissioner to make rules pertaining to the financial condition and market regulation surveillance systems; Section 31A-2-204, Conduct of Examinations, deals with the conduct of an examination of an insurer by the department, what is contained in the order, accessing licensees records, compliance to the examiner's requests, resolving the issue of inadequate records and the preparation and the issuance and distribution of the report; Section 31A-2-205, Examination Expenses, sets standards for setting the cost of the examination of an insurer and how and when it is to be paid; Sections 31A-19a-201, 31A-19a-202, and 31A-19a-203, Rate Standards, require a rule to set procedures for submitting rate filings electronically; and Section 31A-23a-402, Unfair Marketing Practices, allows the commissioner to define by rule insurance practices that are unfair methods of competition or deceptive acts or practices as determined after

a finding of fact. The rule establishes criteria for the modification of manual rates through the application of insurer rate modification plans and to the reporting of pertinent information concerning utilization of such plans, in order to determine whether rates developed meet the standards of the rating law.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the department during 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 gives guidance to licensees about how they can develop alternative rating plans. The rule establishes criteria that must be applied to all policies written outside of a standard rating structure. This rule establishes guidelines that reduce the possibility of unfair rating by property and casualty insurance companies and rate service organizations. 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: 12/22/2011

Insurance, Administration
R590-126
Accident and Health Insurance
Standards

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 35556
FILED: 12/19/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS

ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3)(a) authorizes rules to implement the Insurance Code; Sections 31A-2-202 and 31A-23a-412 authorize the commissioner to request reports, conduct examinations, and inspect records of any licensee; Subsection 31A-22-605(4) requires the commissioner to adopt rules to establish standards for disclosure in the sale of, and benefits to be provided by individual and franchise accident and health policies; Section 31A-22-623 authorizes the commissioner to establish by rule minimum standards of coverage for dietary products for inborn metabolic errors; Section 31A-22-626 authorizes the commissioner to establish by rule minimum standards of coverage for diabetes for accident and health insurance; Subsection 31A-23a-402(8) authorizes the commissioner to define by rule acts and practices that are unfair and unreasonable; and Subsection 31A-26-301(1) authorizes the commissioner to set standards for timely payment of claims. The rule provides reasonable standardization and simplification of terms and coverages of insurance policies in order to facilitate public understanding and comparison and to prohibit provisions which may be misleading or confusing in connection with the purchase of accident and health insurance or with the settlement of claims and to provide full disclosure in the sale of such insurance.

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 by the department during the past five years, even during the three comment periods provided to the public when changes were made to the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Products in the individual market require closer regulation since there is not an employer entity who can bargain for an equitable contract on behalf of the individual. The rule sets forth benefits to be offered for certain products, yet still allows products with lesser benefits to be offered if marketed as "limited benefits." This assists individuals to assess what type of product is being offered. 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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 12/19/2011

EFFECTIVE: 12/22/2011

Insurance, Administration
R590-133
 Variable Contracts

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 35569
 FILED: 12/22/2011

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3) authorizes the commissioner to implement the provisions of Title 31A and Subsection 31A-20-106(1)(b)(ii) gives the commissioner authority to regulate the issuance and sale of variable contracts.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Written comments were received during the last comment period for the filing under DAR No. 34175. Two concerns were expressed but were soon withdrawn once the person received more background.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule provides guidance to both insurers and producers selling variable life insurance products so that compliance with the Insurance Code can be maintained. The rule provides consumer protection by requiring disclosure and annual reports for the product purchased. 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

Insurance, Administration
R590-176
 Health Benefit Plan Enrollment

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 35557
 FILED: 12/19/2011

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3) authorizes the commissioner to write rules to implement the Insurance Code, Section 31A. The rule provides enrollment standards as required by Section 31A-30-108 for carriers who provide health benefit plan coverage to individuals and small employers as stated in Section 31A-30-104. Subsection 31A-2-202(2) allows the commissioner to prescribe forms for the collection of information by the department. The rule requires the insurer to file a certificate with the department with information about the individuals covered, the qualifying conditions, and uninsurable count at the end of an enrollment.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This rule was amended twice in the past five years, effective 09/09/2008 and 11/18/2008. Due to two comments received during the first comment period, further changes were made to the rule adding the full name and date of the uninsurable underwriting standard specified in the rule along with how the standard is to be used by the health insurance industry. No comments were received during the second comment period that took effect 11/18/2008.

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 provides clarification for Title 31A, Chapter 30, with regards to the federal Health Insurance Portability and Accountability Act (HIPAA) and HIPUtah. The rule provides standards that must be met for an insurer to be waived from the requirements of Chapter 30 and defines what constitutes meeting the enrollment cap. It also addresses general requirements to make sure insurers treat health benefit plan applicants fairly. 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: 12/19/2011

**Insurance, Administration
 R590-181
 Yankee Bond Rule**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 35555
 FILED: 12/19/2011

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-18-105(13) permits the commissioner to specify an investment, besides those listed in this section, that insurers can invest in. The rule allows them to invest in Yankee Bonds.

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: Due to the fact that some insurers are investing in Yankee Bonds, this rule needs to provide guidelines making sure the quality of the bond is high and does not take up a major share of the investment portfolio. Without the rule, insurers would not be able to invest in them at all. 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: 12/19/2011

**Insurance, Administration
 R590-182
 Risk Based Capital Instructions**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 35553
 FILED: 12/19/2011

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 31A-2-201 allows the commissioner to write rules to implement the Insurance Code, Title 31A. The more specific rulemaking authority is in Subsection 31A-17-601(7), which gives the commissioner the right to adopt risk based capital (RBC) instructions to be used by licensed insurers and filed annually with the department.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments regarding this rule during 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 provides reference to the RBC instructions and establishes their authority under Utah law. The RBC reports and instructions are important to ensure that Utah insurance companies report on the same basis as companies from other states. Without this uniformity, cost to companies and to the state would increase significantly, which will also increase costs to Utah policyholders. 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: 12/19/2011

Public Safety, Administration
R698-1

Public Petitions for Declaratory Orders

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 35547

FILED: 12/16/2011

**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: As required by Section 63G-4-503, this rule provides the procedures for submission, review and disposition of petitions for agency declaratory orders on the applicability of statutes, rules, and orders governing or issued by the agency. In order of importance, procedures governing declaratory orders are: procedures specified in this rule pursuant to Title 63G, Chapter 4; the applicable procedures of Title 63G, Chapter 4; applicable procedures of other governing state and federal law; and the Utah Rules of Civil Procedure.

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 or 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: Continuation of Rule R698-1 is required by statute, and provides the ability for persons to petition the applicability of statutes, rules, and orders within the primary jurisdiction of the agency. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
ADMINISTRATION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W 1ST FLR
SALT LAKE CITY, UT 84119-5994
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Amy Lightfoot by phone at 801-718-7901, by FAX at 801-965-4608, or by Internet E-mail at alightfoot@utah.gov

AUTHORIZED BY: Lance Davenport, Commissioner

EFFECTIVE: 12/16/2011

Public Safety, Administration
R698-2

**Government Records Access and
Management Act Rule**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 35548

FILED: 12/16/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Subsection 63G-2-204(2)(d) of the Government Records Access and Management Act. Subsection 63G-2-204(2)(d) allows governmental entities to make rules, in accordance with Title 63G, Chapter 3, specifying where and to whom requests for access to government records shall be directed.

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 or 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: Continuation of this rule is required by statute and provides procedures for access, and denial of access to government records. Therefore, this rule should be continued.

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

PUBLIC SAFETY
ADMINISTRATION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W 1ST FLR
SALT LAKE CITY, UT 84119-5994
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Amy Lightfoot by phone at 801-718-7901, by FAX at 801-965-4608, or by Internet E-mail at alightfoot@utah.gov

AUTHORIZED BY: Lance Davenport, Commissioner

EFFECTIVE: 12/16/2011

Public Safety, Administration

R698-3

Americans With Disabilities Act (ADA) Complaint Procedure

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 35549

FILED: 12/16/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is made under authority of Subsection 63G-3-201(3). As required by 28 CFR 35.107, the Department of Public Safety adopts and publishes the grievance procedures within this rule for prompt and equitable resolution of complaints alleging any action prohibited by Title II of the Americans with Disabilities Act, as amended.

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 or 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: Continuation of Rule R698-3 is required by statute. This rule implements the provisions of 28 CFR 35 which in turn implements Title II of the Americans with Disabilities Act, which provides that no individual shall be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by the department because of a

disability. Therefore, this rule should be continued.

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

PUBLIC SAFETY
ADMINISTRATION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W 1ST FLR
SALT LAKE CITY, UT 84119-5994
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Amy Lightfoot by phone at 801-718-7901, by FAX at 801-965-4608, or by Internet E-mail at alightfoot@utah.gov

AUTHORIZED BY: Lance Davenport, Commissioner

EFFECTIVE: 12/16/2011

Public Safety, Peace Officer Standards and Training

R728-405

Drug Testing Requirement

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 35560

FILED: 12/21/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 53-6-105 which states the Director of Peace Officer Standards and Training shall prescribe standards for the certification of peace officer training academies and prescribe minimum qualifications for certification of peace officers. Subsection 53-6-105(1)(k) provides that the director shall, with the advice of the council, make rules necessary to administer Title 53, Chapter 6.

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 public comments regarding this rule have been received 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: This rule establishes rules drug testing of basic peace officer training applicants which must be followed by a certified training academy in order to ensure all statutory

requirements are met. It is necessary to continue this rule in order to establish procedures that will ensure individuals attending a certified training academy meet the statutory requirements. The division has received no public comments in the past five years calling any portion of this rule into question.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY, UT 84070
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kelly Sparks by phone at 801-256-2321, by FAX at 801-256-0600, or by Internet E-mail at ksparks@utah.gov

AUTHORIZED BY: Scott Stephenson, Director

EFFECTIVE: 12/21/2011

Public Safety, Peace Officer Standards and Training **R728-406**

Requirements For Approval and Certification of Basic Correctional, Reserve and Special Function Training Programs and Applicants

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 35561
FILED: 12/21/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 53-6-105 which states the Director of Peace Officer Standards and Training shall prescribe standards for the certification of peace officer training academies and prescribe minimum qualifications for certification of peace officers. Subsection 53-6-105(1)(k) provides that the director shall, with the advice of the council, make rules necessary to administer Title 53, Chapter 6.

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 public comments regarding this rule have been received 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: This rule establishes rules which must be followed by a certified training academy in order to ensure all statutory requirements are met. This rule also establishes procedures to be followed by a law enforcement agency when requesting certification of their personnel. It is necessary to continue this rule in order to establish procedures that will ensure individuals attending a certified training academy meet the statutory requirements. The division has received no public comments in the past five years calling any portion of this rule into question.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY, UT 84070
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kelly Sparks by phone at 801-256-2321, by FAX at 801-256-0600, or by Internet E-mail at ksparks@utah.gov

AUTHORIZED BY: Scott Stephenson, Director

EFFECTIVE: 12/21/2011

Public Safety, Peace Officer Standards and Training **R728-407** Waiver/Reactivation Process

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 35562
FILED: 12/21/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Subsection 53-6-105(1)(k) which provides that the director shall, with the advice of the council, make rules necessary to administer Title 53, Chapter 6, and Section 53-6-206 which authorizes the director to waive basic training for individuals who meet the statutory requirements.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No public comments regarding this rule have been received 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: This rule establishes procedures which must be followed by an applicant who requests a waiver of basic training requirements. It is necessary to continue this rule in order to establish procedures that will ensure individuals seeking a training waiver meet the statutory requirements.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY, UT 84070
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Kelly Sparks by phone at 801-256-2321, by FAX at 801-256-0600, or by Internet E-mail at ksparks@utah.gov

AUTHORIZED BY: Scott Stephenson, Director

EFFECTIVE: 12/21/2011

Public Safety, Peace Officer Standards and Training

R728-408

POST Academy and the Emergency Vehicle Operations Range are Secure Facilities

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 35567
FILED: 12/21/2011

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 authority for this rule is under Subsection 76-8-311.1(1)(c)(2), which establishes that a law enforcement facility may be declared a secure facility.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE

FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No public comments regarding this rule have been received 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: This rule was intended to regulate the possession of firearms in the Peace Officer Standards and Training Facility. Since the original rule was adopted, the training facility has moved into a mixed purpose building with more open public access. The change in facility has made this rule obsolete and it is the intention of the division to repeal this rule. Therefore, this rule should be continued until the repeal can be processed.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY, UT 84070
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Kelly Sparks by phone at 801-256-2321, by FAX at 801-256-0600, or by Internet E-mail at ksparks@utah.gov

AUTHORIZED BY: Scott Stephenson, Director

EFFECTIVE: 12/21/2011

Public Safety, Peace Officer Standards and Training

R728-409

Suspension or Revocation of Peace Officer Certification

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 35563
FILED: 12/21/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Subsection 53-6-105(1)(k) which provides that the director shall, with the advice of the council, make rules necessary to administer Title 53, Chapter 6, and Section 53-6-211 which provides the council has authority to suspend or revoke the certification of a peace officer.

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 public comments regarding this rule have been received since the rule was repealed and reenacted in 2010.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes procedures which must be followed when a peace officer is accused of misconduct in violation of Section 53-6-211. It is necessary to continue this rule in order to ensure due process is followed in any case involving the possible suspension or revocation of a peace officer.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY, UT 84070
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kelly Sparks by phone at 801-256-2321, by FAX at 801-256-0600, or by Internet E-mail at ksparks@utah.gov

AUTHORIZED BY: Scott Stephenson, Director

EFFECTIVE: 12/21/2011

**Public Safety, Peace Officer Standards
and Training
R728-410**
Guidelines Regarding Failure To Obtain
Annual Statutory Training

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 35564
FILED: 12/21/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Subsection 53-6-105(1)(k) which provides that the director shall, with the advice of the council, make rules necessary to administer Title 53, Chapter 6, and Subsection 53-6-202(4)(a) which requires all peace officers to obtain annual certified training of not less than 40 hours.

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 public comments regarding this rule have been received 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: This rule establishes guidelines which must be followed when a peace officer fails to obtain annual training as required by statute. It is necessary to continue this rule in order to ensure proper process are followed in any case involving an annual training deficiency of a peace officer.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY, UT 84070
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kelly Sparks by phone at 801-256-2321, by FAX at 801-256-0600, or by Internet E-mail at ksparks@utah.gov

AUTHORIZED BY: Scott Stephenson, Director

EFFECTIVE: 12/21/2011

**Public Safety, Peace Officer Standards
and Training
R728-500**
Utah Peace Officer Standards and
Training In-Service Training
Certification Procedures

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 35565
FILED: 12/21/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Subsection 53-6-105(1)(k) which provides that the director shall, with the advice of the council, make rules necessary to administer Title 53, Chapter 6, and Subsection 53-6-202(4)(a) which requires all peace officers to obtain annual certified training of not less than 40 hours.

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 public comments regarding this rule have been received 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: This rule establishes procedures which must be followed to certify a peace officer has obtained the annual training as required by statute. It is necessary to continue this rule in order to ensure proper processes are followed for obtaining and reporting annual training by a peace officer.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY, UT 84070
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kelly Sparks by phone at 801-256-2321, by FAX at 801-256-0600, or by Internet E-mail at ksparks@utah.gov

AUTHORIZED BY: Scott Stephenson, Director

EFFECTIVE: 12/21/2011

Tax Commission, Administration **R861-1A** Administrative Procedures

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 35595
FILED: 01/03/2012

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 10-1-405 requires the Tax Commission to follow the same procedures for the enforcement of the municipal telecommunications tax that it follows for the enforcement of sales taxes. Section 41-1a-209 requires the Motor Vehicle Division to supply automobile registration forms; specifies what the forms shall include. Section 52-4-207 provides that a public body may not hold an electronic meeting unless it has adopted a rule governing those proceedings; and provides criteria an agency must follow in drafting those rules. Section 59-1-205 requires the governor to appoint one member of the Commission as

chairperson; three members of the commission constitute a quorum for the transaction of business; requires that Commission be in session during regular business hours; allows Commission to hold sessions or conduct business at any place in the state. Section 59-1-207 requires Tax Commission to prepare and implement a plan for the administration of the divisions and other offices in the Tax Commission, that do not report directly to the Commission; duties and responsibilities to be delegated to the executive director. Section 59-1-210 defines powers and duties of Tax Commission; includes power to adopt rules and policies consistent with the Constitution and laws of the State of Utah. Section 59-1-301 allows a taxpayer to pay under protest and outlines the actions to recover the taxes paid under protest. Section 59-1-304 places limitations on when a class action may be maintained on an action that relates to a tax or a fee; indicates who may be included in the class action; and places limitations on the recovery by members of a class. Section 59-1-401 establishes penalties for failure to file a tax return or failure to pay tax, including criminal penalties, and allows a waiver for reasonable cause. Section 59-1-404 defines commercial information and limits the disclosure of commercial information obtained from a property taxpayer. Section 59-1-405 requires the Commission to promulgate a rule to establish procedures for a meeting not open to the public, including requirements for minutes and a recording of meetings not open to the public. Section 59-1-501 allows any taxpayer in the state to file a request for agency action, petitioning the Commission for redetermination of a deficiency. Section 59-1-502.5 requires an initial hearing to be held at least 30 days before any formal hearing is held; outlines procedures of initial hearing. Section 59-1-611 requires a taxpayer who is seeking judicial review of a Commission decision to post a bond or deposit the full amount of the taxes, interest, and penalties with the Commission unless the taxpayer meets certain requirements that satisfy a waiver of this requirement. Section 59-1-705 provides that penalties and interest shall be assessed and collected in the same manner as taxes. Section 59-1-1404 provides that the commission may make rules designating delivery services the commission or a person may use to mail a document, and providing procedures for determining the date a delivery service records or marks a document as having been received by the delivery service for delivery. Section 59-2-212 requires the Tax Commission to equalize and adjust the valuation of all taxable property in the state; allows Tax Commission to reassess any property it feels has been under or over assessed. Section 59-2-704 requires Commission to publish studies designed to determine the relationship between the market value shown on the assessment roll and the market value of property in each county; Commission to order each county to factor or adjust assessment rates using the most current Commission studies, provides penalties if a county fails to properly implement adjustments; allows Commission to establish procedures for factor order hearings. Section 59-2-1004 sets guidelines for appeals of property tax assessments to the county board of equalization. Section 59-2-1006 provides that persons who are not satisfied with the decision of the

board of equalization concerning the assessment and equalization of property may appeal that decision to the Tax Commission; provides procedures for appealing the board of equalization decision; indicates the Tax Commission duties in such an appeal. Section 59-2-1007 sets guidelines for appeals of property tax assessments; requires Tax Commission to provide adequate notice to the county when adjusting an assessment. Section 59-5-104 requires producers of oil or gas within the state to file an annual statement with the Tax Commission. Section 59-5-204 requires those engaged in mining or extracting metalliferous minerals to file an annual statement with the Tax Commission. Section 59-6-104 applies provisions of Title 59, Chapter 10, Part 4, individual income tax withholding, to withholding of mineral production taxes. Section 59-7-505 requires returns to be signed by a responsible officer of the corporation. Section 59-7-506 requires corporations to keep records relating to corporate franchise and income tax. Section 59-7-517 allows the Tax Commission to send a notice of deficiency if the commission determines that there is a deficiency in a taxpayer's corporate franchise tax. Section 59-8-105 requires a semiannual return from those upon whom the gross receipts tax is imposed. Section 59-8a-105 requires a semiannual return from electrical corporations that are subject to the gross receipts tax. Section 59-10-501 requires individual taxpayers to maintain records of income tax liability. Section 59-10-512 requires returns to be signed in accordance with forms or rules prescribed by the Tax Commission; requires partnership returns to be signed by any one of the partners. Section 59-10-533 allows a taxpayer to file a written petition requesting redetermination of the denial of a claim for refund. Section 59-12-107 provides guidelines for collection, remittance, and payment of sales and use tax. Section 59-12-111 requires all those who possess a license to keep records of all sales made; provides a penalty for those without a sales tax license or use tax registration who have a liability, but do not file a sales and use tax return. Section 59-12-114 permits a taxpayer to object to a notice of deficiency or notice of assessment. Section 59-12-118 provides that the Commission has exclusive authority to administer and enforce the state and local sales taxes, including the promulgation of rules to administer and enforce these taxes. Section 59-13-206 outlines monthly statements to be filed by every distributor of motor fuel; provides a penalty for failure to file the monthly statement. Section 59-13-210 allows Tax Commission to promulgate rules to administer motor fuel tax; also allows the examination of monthly reports filed by motor fuel distributors. Section 59-13-211 requires distributors to keep a record of all purchases, receipts, sales, and distribution of motor fuel. Section 59-13-307 requires suppliers of special fuel to file a monthly report with the Tax Commission; provides a penalty for non-filers. Section 59-13-312 requires users, suppliers, and any other person importing, manufacturing, refining, dealing in, transporting, or storing special fuel to keep records to substantiate all activity of that fuel; records to be kept for a period of three years. Section 59-13-403 applies all administrative and penalty provisions of Part 2, Motor Fuel, to Part 4, Aviation Fuel. Section 59-14-303 requires quarterly returns and payment of

tax on all tobacco products; provides penalties for failure to file return or pay tax. Section 59-15-105 requires monthly returns to be filed by all those importing beer for sales, use, or distribution in the state of Utah; also requires those filing returns to keep records of activity relating to beer imports for three years. Section 63G-3-201 indicates when rulemaking is required. Section 63G-4-102 defines the scope and applicability of the Administrative Procedures Act. Section 63G-4-201 requires all adjudicative proceedings to be commenced by a notice of agency action, or a request for agency action. Law also provides procedures for filing and serving agency action notices. Section 63G-4-202 gives rulemaking power to agencies to designate adjudicative proceedings as formal and informal. Section 63G-4-203 requires an agency that enacts a rule designating one or more category of adjudicative proceedings as informal adjudicative proceedings, to prescribe by rule procedures for the informal adjudicative proceedings. Sections 63G-4-204 through 63G-4-209 outline procedures for agency formal and informal adjudicative proceedings. Section 63G-4-205 establishes procedures for discovery in formal adjudicative proceedings if an agency has not enacted rules on discovery. Section 63G-4-206 establishes procedures to be followed when conducting a formal adjudicative proceeding, including the use of evidence. Section 63G-4-208 establishes procedures an agency must follow when conducting a formal adjudicative proceeding; including the signing and issuance of orders. Section 63G-4-302 allows an individual to file a request for reconsideration within 20 days of a final agency action. Section 63G-4-401 allows a party to obtain judicial review of a final agency action; requires exhaustion of administrative remedies prior to seeking judicial review, with exceptions. Section 63G-4-503 allows any person to file a request that the agency issue a declaratory order; outlines agency action when issuing a declaratory order. Section 68-3-7 provides that when computing the time in which an act provided by law is to be done, the last day is included unless the last day is a holiday. Section 68-3-8.5 provides when a report or payment to the government is considered to be filed or made. Section 69-2-5 requires the Commission to follow the same procedures for the enforcement of the 911 emergency telecommunications service charge that it follows for the enforcement of sales taxes. Section 76-8-502 allows a person to be found guilty of a second-degree felony for making a false or inconsistent material statement under oath. Section 76-8-503 allows a person to be found guilty of a class B misdemeanor for making a false statement under oath if the false statement occurs in an official proceeding or is made to mislead a public servant in performing his official functions.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R861-1A-2 clarifies the process by

which the Tax Commission makes rules, including notice, hearing, and publication of rules. Section R861-1A-3 allows persons or parties affected by a commission action the right to a division conference and a prehearing conference for the purpose clarifying and narrowing the issues and encouraging settlement. Section R861-1A-9 clarifies duties and responsibilities of the commission when acting as the Utah State Board of Equalization. Section R861-1A-10 provides instructions concerning: 1) rights of parties; 2) effect of partial invalidation of rules; 3) enactment of inconsistent legislation; and 4) presumption of familiarity. Section R861-1A-11 clarifies the process of appealing a corrective action. Section R861-1A-12 outlines the policies and procedures of the commission regarding disclosure of and access to documents, work papers, decisions, and other information prepared by the commission. Section R861-1A-13 outlines the manner by which disabled persons may request reasonable accommodations to services, programs, activities, or a job or work environment at the Tax Commission. Section R861-1A-15 requires all taxpayers to provide the Tax Commission with their social security number or federal identification number, as required by the Tax Commission. Section R861-1A-16 outlines the management plan of the Utah State Tax Commission. Section R861-1A-18 indicates how remittances received by the Tax Commission shall be allocated to penalty, interest and tax. Section R861-1A-20 provides guidelines on the timeliness of requests for a hearing to correct a centrally assessed property tax assessment, a petition for redetermination, and those seeking judicial review. Section R861-1A-22 clarifies the time a petition for adjudicative action may be filed and the contents of the petition; does not allow the commission to reject a petition because of nonconformance, but allows the commission to require an amended or substitute petition be filed. Section R861-1A-23 requires all matters to be designated as formal proceedings and set for a prehearing conference, initial hearing, or scheduling conference; allows matters to be diverted to mediation. Section R861-1A-24 provides guidelines for a formal adjudicative proceeding, including the initial hearing. Section R861-1A-26 outlines procedures to be followed in a formal adjudicative proceeding. Section R861-1A-27 establishes discovery procedures in a formal proceeding. Section R861-1A-28 authorizes formal proceedings to be conducted the same as in judicial proceedings in the state court; allows every party the right to introduce evidence, and provides guidelines on testimonies. Section R861-1A-29 clarifies that the presiding officer shall submit all written decisions and orders to the commission for agency review before issuing the order; authorizes any party to file a written request for reconsideration alleging mistake of law or fact, or discovery of new evidence. Section R861-1A-30 prohibits any party from having an ex parte communication with a commissioner or administrative law judge; provides guidelines if relevant ex parte communications are received by a commissioner or administrative law judge. Section R861-1A-31 provides for situations when a petition for a declaratory order may be filed; authorizes the commission to refuse to render the order under certain circumstances. Section R861-1A-32 authorizes

the use of mediation to obtain a settlement agreement. Section R861-1A-33 defines "settlement agreement;" outlines procedures to be followed for submitting and approving settlement agreements. Section R861-1A-34 defines private letter rulings; provides procedures for requesting a private letter ruling; indicates the weight afforded a private letter ruling, as well as actions that may be taken if the ruling leads to the denial of a claim, audit assessment, or other agency action. Section R861-1A-35 defines "database management system," "electronic data interchange," "hard copy," "machine-sensible record," "storage-only imaging system," and "taxpayer;" provides guidelines for storage of records in various media. Section R861-1A-36 clarifies what constitutes a signature for taxpayers who submit a vehicle registration over the internet, or a tax return through an authorized web site. Section R861-1A-37 defines "assessed value of the property," "disclosure," and "published decision;" indicates property tax information that may be disclosed--in general, during an action or proceeding, or in a published decision. Section R861-1A-38 indicates the actions the commission may take to expedite exhaustion of administrative remedies for purposes of determining the persons who may be included in a class action. Section R861-1A-39 defines "failure to file a tax return" and "unpaid tax" for purposes of imposing the penalty for failure to file a tax return. Section R861-1A-40 indicates how a taxpayer that seeks judicial review of a final commission determination of a deficiency may apply for a waiver of the requirement to post a bond with the commission. Section R861-1A-42 provides the circumstances that constitute reasonable grounds for waiver of a penalty. Section R861-1A-43 provides the conditions under which a tax commissioner may participate electronically in a public meeting. Section R861-1A-44 for purposes of determining the date on which a document has been mailed, sets forth delivery services and the date a delivery service receives a document. Section R861-1A-45 sets forth the procedures the commission shall follow when the commission holds a meeting that is not open to the public, including procedures for written and recorded minutes. Therefore, this rule should be continued.

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

TAX COMMISSION
ADMINISTRATION
210 N 1950 W
SALT LAKE CITY, UT 84134-0002
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

AUTHORIZED BY: Michael Cragun, Tax Commissioner

EFFECTIVE: 01/03/2012

Tax Commission, Auditing
R865-3C
Corporation Income Tax

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 35597
FILED: 01/03/2012

**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 59-7-204 indicates how a corporation shall determine the portion of Utah taxable income derived from or attributable to sources within this state.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R865-3C-1 indicates how a corporation subject to the corporation income tax shall determine the net income attributable to Utah. Therefore, this rule should be continued.

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:
♦ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

AUTHORIZED BY: Michael Cragun, Tax Commissioner

EFFECTIVE: 01/03/2012

Tax Commission, Auditing
R865-4D
Special Fuel Tax

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 35598
FILED: 01/03/2012

**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 59-13-102 provides definitions relating to the motor and special fuel taxes. Section 59-13-301 imposes a tax on special fuels and provides for exemptions to the tax. Section 59-13-305(1) requires the user to file a report with the Tax Commission showing the fuel purchased and used in the state. Section 59-13-307 requires the supplier to file a report with the Tax Commission showing fuel delivered to or removed from the state. Section 59-13-312 requires users and user-dealers to keep records in a form prescribed by the commission, of all purchases, receipts and sales. Section 59-13-501 allows the commission to enter into cooperative agreements with other states for the exchange of information and auditing of fuels used by fleets of interstate vehicles. Section 59-13-313 requires the Commission to enforce special fuels tax laws and prescribe rules as necessary to enforce those laws.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R865-4D-1 defines "motor vehicle" and "user" for purposes of imposing the special fuels tax. Section R865-4D-2 provides guidance on when the fee for the special fuel tax exemption certificate shall be paid; clarifies when the special fuel tax exemption applies; outlines formula for calculating fuel use. Section R865-4D-6 sets forth the record-keeping requirements for special fuel user-dealers. Section R865-4D-18 sets forth the record-keeping requirements for special fuel users. Section R865-4D-19 outlines how a government entity is to obtain a refund for special fuel taxes paid and indicates records needed to support the refund. Section R865-4D-20 indicates the conditions under which the exemption or refund for exported undyed diesel fuel shall apply. Section R865-4D-21 defines "gross gallon" and "net gallon;" requires suppliers to calculate tax liability on a consistent gross gallon or net gallon basis; specifies that both gross and net amounts must be on all invoices, bills of lading, and special fuel tax returns. Section R865-4D-22 provides procedures for administering the reduction of special fuel tax on fuel that is subject to a tax imposed by the Navajo Nation. Section R865-4D-23 indicates that the commission entered into the International Fuel Tax Agreement effective 01/01/1990. Therefore, this rule should be continued.

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:

♦ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

AUTHORIZED BY: Michael Cragun, Tax Commissioner

EFFECTIVE: 01/03/2012

Tax Commission, Auditing **R865-6F** Franchise Tax

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 35598
FILED: 01/03/2012

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 16-10a-1501 through 16-10a-1533 establish guidelines by which a business may receive authority to become qualified or incorporated to transact business in Utah, and the penalties for transacting business without authority. Requirements for establishing a legal place of business for foreign corporations operating in the state are addressed, as well as requirements for the withdrawal of a foreign corporation. Provides guidelines for revocation. Also outlines procedures for a foreign company to become domesticated. Section 53B-8a-112 gives the Tax Commission permission to establish rules to implement the corporate franchise and individual income tax imposed on the Utah Educational Savings Plan Trust property and income. Section 59-1-1301 through 59-1-1309 creates the Reportable Transactions Act; including defining "material advisor" and "reportable transaction," requiring the disclosure of reportable transactions and lists maintained by a material advisor and providing penalties. Section 59-6-102 requires that each producer of minerals in Utah deduct an amount equal to 5 percent of the amount that would be paid to the person entitled to the payment. Any person filing an income tax return is entitled to a credit against this tax if the amount withheld is greater than the tax due on the return. Section 59-7-101 defines terms used in the corporate tax code. Section 59-7-102 provides exemptions from the corporate tax. Section 59-7-104 requires all foreign and domestic

corporations to pay an annual corporate franchise or income tax. Section 59-7-105 provides additions to unadjusted income for computing adjusted income. Section 59-7-106 provides subtractions from unadjusted income for computing adjusted income. Section 59-7-108 provides guidelines on the treatment of distributions made by corporations. Section 59-7-112 provides for the governance of installment sales. Sections 59-7-302 through 59-7-321 require allocation and apportionment of income for corporations earning income both within and without the state. Establishes three-part formula for apportionment of business income based on the property factor, payroll factor, and sales factor. Section 59-7-317 provides instructions for computing sales factor with regard to corporate franchise tax. Section 59-7-321 provides that the purpose of Title 59, Chapter 7, Part 3 is to make uniform the law of those states that enact its provisions. Section 59-7-402 indicates when corporations must file a water's edge combined report and gives direction on who may elect to file the report. Section 59-7-403 provides unitary groups with the option of filing a worldwide combined report; if this report is elected they must continue to file this report unless they have consent from the Tax Commission to file on another basis. Section 59-7-501 provides guidelines for taxable period and accounting method to be used in computing Utah taxable income. Section 59-7-502 states that if a corporation changes its taxable year for federal tax purposes or changes its accounting period, the new taxable year or accounting period shall become the corporation's taxable year for Utah corporate franchise and income tax. Section 59-7-505 establishes requirements for filing returns, including combined returns, and states when they are due. Section 59-7-609 provides a corporate franchise tax credit equal to 20% of the qualified rehabilitation expenditures made in connection with the restoration of a residential certified historic building. Section 59-7-614 provides a corporate franchise tax credit for renewable energy systems. Section 59-13-202 creates a corporate franchise tax credit against fuel tax for persons using stationary farm engines, and self propelled nonhighway farm machinery. Section 59-13-301 imposes a special fuels tax on special fuels; provides for transactions exempt from the tax; requires exemptions to be taken in the form of a tax refund. Section 63M-1-401 through Section 63M-1-416 establishes the enterprise zone act, which provides state assistance to businesses operating in rural parts of the state. Provides state tax credits for certain businesses operating within the enterprise zone.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R865-6F-1 clarifies franchise tax responsibilities of foreign corporations. Also, clarifies the manner in which a foreign corporation terminates its corporate franchise tax responsibilities. Section R865-6F-2

establishes taxable year for purposes of the corporate franchise tax and clarifies when first return period begins. Section R865-6F-6 sets forth guidelines to determine whether nexus has been established for purposes of subjecting a corporation to the Utah corporation franchise tax. Section R865-6F-8 classifies all business income as either "business" or "nonbusiness," provides rules to determine whether income is business or nonbusiness, defines and establishes criteria for apportionment of tax, and defines the three elements of the apportionment formula: the property factor, payroll factor, and sales factor. Section R865-6F-14 states the tax commission policy to follow federal law as closely as possible in determining net income for Utah corporate franchise tax. The rule lists items normally followed in conformity with federal law and items requiring different state tax treatment. Section R865-6F-15 clarifies that the installment method of reporting corporate income is a postponement of tax, not an exemption from tax. Rule states when the privilege of installment reporting is terminated. Rule also states that installment income is subject to the same allocation and apportionment provisions as all other corporate income. Section R865-6F-16 provides a methodology for apportioning income from long-term construction projects when a taxpayer elects to use the percentage-of-completion method of accounting or the completed contract method of accounting. Section R865-6F-18 defines "member" and "producer" for purposes of the corporate franchise and income tax exemption for a farmers' cooperative; provides procedures for qualifying for and applying the exemption. Section R865-6F-19 provides a methodology for apportioning trucking company income to Utah. Section R865-6F-22 defines "worldwide year" and "water's edge year" in treatment of carrybacks and carry forwards, and notes criteria and penalties for switching from worldwide method to water's edge or from water's edge method to worldwide method. Section R865-6F-24 provides that, in the case of a unitary group, nexus created by any member of the group creates nexus for the entire unitary group. Section R865-6F-26 provides instructions for applying for and receiving historic preservation tax credit, and any subsequent carryforwards of that credit. Section R865-6F-27 provides that the order of deducting credits against the corporate franchise tax is: 1) nonrefundable credits; 2) nonrefundable credits with a carryforward; and 3) refundable credits. Section R865-6F-28 provides guidance on what investments qualify for the enterprise zone franchise tax credits and how a business should calculate its base number of employees. Rule also outlines the effect on tax credits if a county loses its designation as an enterprise zone. Section R865-6F-29 provides a methodology for apportioning railroad income to Utah. Section R865-6F-30 sets forth the information a trustee of the Utah Educational Savings Plan Trust must provide to the tax commission and the forms necessary to provide this information to the commission. Section R865-6F-31 defines "outer-jurisdictional property," "print," "printed materials," "purchaser," "subscriber," and "terrestrial facility." Provides a methodology for apportioning income of publishing companies to the state for franchise tax purposes. Section R865-6F-32 provides a methodology for apportioning the

income of financial institutions to the state for franchise tax purposes. Defines terms related to financial institutions. Section R865-6F-33 defines terms related to telecommunications corporations; provides a methodology for apportioning and allocating income for telecommunications corporations to the state for purposes of franchise tax. Section R865-6F-36 defines terms for registered securities or commodities brokers or dealers; provides a methodology for apportioning the income of registered securities or commodities brokers or dealers to the state for corporate franchise and income tax purposes. Section R865-6F-37 indicates how a taxpayer shall disclose a reportable transaction to the Commission and how a material advisor shall disclose a reportable transaction to the Commission. Section R865-6F-38 provides that, in the absence of fraud, the amount certified as qualifying for the renewable energy systems tax credit shall be the amount allowed by the Commission as a credit. Section R865-6F-39 defines captive real estate investment trust for purposes of the addition to unadjusted income required to compute the taxable income of a captive real estate investment trust. Section R865-6F-40 indicates that the activities of a partnership are taken into consideration in determining whether a corporation qualifies as a foreign operating company. Therefore, this rule should be continued.

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:

♦ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

AUTHORIZED BY: Michael Cragun, Tax Commissioner

EFFECTIVE: 01/03/2012

Tax Commission, Auditing **R865-91** Income Tax

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 35600
FILED: 01/03/2012

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 31A-32a-106 authorizes the Tax Commission to adopt rules necessary to implement the medical care savings account tax deduction. Section 53B-8a-112 authorizes the Tax Commission to adopt rules necessary to implement the educational saving plan tax deduction. Section 59-1-1301 through Section 59-1-1309 creates the Reportable Transactions Act; including defining "material advisor" and "reportable transaction," requiring the disclosure of reportable transactions and lists maintained by a material advisor and providing penalties. Sections 59-2-1201 through 59-2-1220 provide general property tax relief for certain persons who own or rent their places of residence through a series of tax credits, refunds and appropriations from the general fund. Section 59-6-102 requires that each producer of minerals in Utah deduct an amount equal to 5 percent of the amount that would be paid to the person entitled to the payment. Any person filing an income tax return is entitled to a credit against this tax if the amount withheld is greater than the tax due on the return. Section 59-10-103 defines individual income tax terms. Section 59-10-114 provides for additions to and subtractions from the federal taxable income of an individual in order to determine state taxable income. Section 59-10-116 levies an income tax on nonresidents with income from Utah. This tax shall be based on federal adjusted gross income from Utah sources. Section 59-10-117 lists items includable in federal adjusted gross income from Utah sources. Section 59-10-118 states that any taxpayer having business income which is taxable within and without this state shall allocate and apportion his net income to the state. Statute then provides guidelines for allocation. Section 59-10-119 requires that a husband and wife shall file joint or separate returns with Utah based on how they filed federal returns and provides an exception if one spouse is a Utah resident and the other is a nonresident. Section 59-10-120 requires individuals who change status from resident to nonresident or nonresident to resident during the taxable year to file one return for their resident status and one for their nonresident status, and provides guidance on determining taxable income in this case. Section 59-10-121 states that if two returns must be filed because of a change of status from resident to nonresident, or vice versa, the personal exemptions and standard deductions shall be prorated between the returns based on Tax Commission rule. Section 59-10-122 establishes that the state taxable year for an individual will coincide with his federal taxable year. Section 59-10-124 states that the Tax Commission shall have the authority to create rules to prevent over or under taxation when an individual switches accounting methods from one taxable year to the next. Section 59-10-401 defines terms relating to withholding tax. Section 59-10-402 requires each employer to withhold from wages an amount to be determined by a Tax Commission rule; provides an exemption from withholding; provides that amounts withheld shall be a credit to the tax of the individual from whom they were withheld. Section 59-10-403 provides a withholding exemption for an employee who presents to his employer a certificate stating that the employee incurred no tax liability for the preceding year and does not expect to incur tax liability in

the current year. Statute gives rulemaking power to the Tax Commission to implement this section. Section 59-10-405.5 requires a person who withholds income taxes to obtain a withholding tax license from the commission. Indicates when a license applicant must post a bond with the commission and how the bond amount shall be calculated. Section 59-10-406 sets forth requirements for employers on due dates and filing requirements for withholding; gives Tax Commission rulemaking authority to prescribe manner by which an employer shall notify employees of amounts withheld on their behalf; provides that employers hold withheld amounts in trust for the Tax Commission. Section 59-10-407 requires employers to make monthly payments of withholding tax to the Tax Commission if their withholding tax liability averages an amount designated in rule by the Tax Commission. Section 59-10-408 allows Tax Commission to make agreements with the United States government to make provisions necessary to provide for deduction and withholding of tax from wages of federal employees in Utah; gives Tax Commission rulemaking authority to administer withholding. Section 59-10-501 requires all persons liable for tax to keep records, render statements, make returns, and comply with the rules that the Tax Commission may from time to time prescribe. Section 59-10-503 provides that a husband and wife may file a joint return with some exceptions. Section 59-10-504 requires that any fiduciary or receiver required to file a federal return must file a state return as well. Section 59-10-507 requires that any partnership receiving income in the state of Utah shall make a return for the taxable year. Section 59-10-512 requires that any return, statement, or other document submitted to the Tax Commission must be signed in accordance with forms or rules prescribed by the Tax Commission. Section 59-10-514 indicates when an individual income tax return, trust and estates tax return, and partnership tax return must be filed with the Commission; allows the Commission to make rules prescribing what constitutes a filing with the Commission. Section 59-10-516 provides instructions for gaining an extension of time for filing returns. Law states that certain prepayments must be made by original due date or penalties will be assessed on the filing extension. Section 59-10-517 deems the U. S. postmark date as the delivery date; allows the Tax Commission to provide by rule for postmarks by entities other than the U. S. post office. Section 59-10-522 allows the Tax Commission to extend the time for paying tax due on a return under Tax Commission rules, and for paying tax deficiencies. Section 59-10-536 provides a statute of limitations on the assessment and collection of tax by the Tax Commission. Section 59-10-1003 prevents overtaxation by providing a credit against income tax otherwise due to the state of Utah for the amount of tax imposed on the taxpayer in another state. Section 59-10-1006 provides a Utah resident an income tax credit for an amount equal to 20 percent of qualified rehabilitation expenditures when restoring a historic building. Section 59-10-1021 provides a nonrefundable income tax credit for certain contributions made to a medical care savings account. Section 59-10-1023 provides a nonrefundable income tax credit for certain amounts paid under a health benefit plan. Section 59-10-1106 provides a refundable income tax credit

for certain amounts spent for the purchase of a renewable commercial energy system. Section 59-10-1403 provides that a pass-through entity is not subject to an income tax but must file a return; classifies a pass-through entity that transacts business in the same manner as the pass-through entity is classified for federal income tax purposes. Section 59-10-1403.2 requires a pass-through entity to withhold Utah income tax on the entity's business income and Utah-derived non-business income for anyone other than a resident individual; provides an exception to the withholding requirement. Section 59-10-1405 indicates how a pass-through entity's additions and subtractions to income shall be allocated among the pass-through entity taxpayers. Section 59-13-202 entitles any person who purchases motor fuel for the use of stationary or self-propelled machinery used for nonhighway farm operation to an income tax refund, and provides methods for obtaining the credit. Section 59-13-301 imposes a special fuels tax on special fuels; provides for transactions exempt from the tax; requires exemptions to be taken in the form of a tax refund. Sections 63M-1-401 through Section 63M-1-414 create the Enterprise Zone Act, which provides various nonrefundable income tax credits to certain businesses in an enterprise zone.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R865-91-2 defines "resident," "resident taxpayer," "nonresident," "nonresident taxpayer," "part year resident," and "domicile" and clarifies domicile for purposes of a person in active military service. Section R865-91-3 provides instructions on how to file for an income tax credit for income taxes paid to another state. Section R865-91-6 provides instructions for a husband and wife, if either one is a nonresident, to file separate returns even though they filed a joint federal return; provides a method to determine each spouse's FAGI when they qualify to file separate state returns. Section R865-91-7 provides definitions of "part year resident" and "FAGI", provides instructions for determining the FAGI of a part-year resident and a business with income from within and without Utah. Section R864-91-8 provides that two returns are not required when an individual changes status as resident or nonresident, except in unusual circumstances. Section R865-91-9 provides instructions for calculating a taxpayer's taxable state income when required to convert income from a period of less than a year to an annual basis for federal tax purposes. Section R865-91-10 states that a taxpayer must include a statement setting forth all differences when an alternate method of accounting is used to compute income from the method used the previous year. Section R865-91-13 provides guidance for pass-through entity required withholding of Utah income tax from certain taxpayers. Section R865-91-14 requires withholding only on Utah income, and allows credit

for withholding paid to another state. Provides instructions to employers regarding withholding of wages, including income subject to withholding, the number of exemptions that may be claimed, and use of tables published by the commission. Section R865-91-15 states that an employer need not withhold wages from an employee with a federal withholding certificate. Section R865-91-16 prescribes the forms necessary to file withholding returns and sets forth penalties incurred by employers not filing properly. Rule also prescribes information that must be on W-2 form. Section R865-91-17 establishes conditions for employers to file withholding returns on a monthly basis and directions for filing monthly. Section R865-91-18 clarifies taxpayer responsibility to keep and store adequate records for income tax purposes. Section R865-91-19 clarifies whether a joint return or a separate return should be filed in a year in which one spouse dies. Section R865-91-20 clarifies when a fiduciary is required to file a return and the information required to be on the fiduciary return, and establishes liability for payment of the estate's or trust's taxes. Section R865-91-21 provides income tax filing instructions for individuals involved in a partnership. Clarifies method of filing if one member of partnership is a nonresident and the partnership has income from inside and outside the state. Section R865-91-22 clarifies that any return filed with the tax commission is not valid unless the sender signs the return. Also, clarifies the conditions a taxpayer must satisfy to file returns on reproduced or facsimile copies of state tax returns. Section R865-91-23 provides information for prepaying income tax. Rule indicates when interest shall be charged on a return filed pursuant to an extension, and the amount of extension Utah residents in military service stationed outside the U.S. have to file their return. Section R865-91-24 clarifies that provisions relating to prima facie evidence of delivery and the postmark date on registered mail from the United States postal system apply to certified mail as well. Section R865-91-30 provides for a taxpayer to waive the statute of limitations in order to determine whether an activity is engaged in for profit. Section R865-91-33 states that all Utah residents keeping forms for reporting rents, royalties, interest, and remuneration from Utah sources not subject to federal withholding must make them available to authorized representatives of the Tax Commission or submit them to the Tax Commission upon request. Section R865-91-34 states that, for property tax relief purposes, individuals living in an owned trailer home situated on rented land must complete two computations: 1) for property taxes on the mobile home; and 2) for the rental of the land, excluding charges for utilities, services, or furnishings supplied by the landlord. Rule also states what portions of renter received assistance may be included in rent paid. Section R865-91-37 provides definitions for the enterprise zone tax credit and indicates when an investment is a qualifying investment for purposes of the credit. Rule provides guidance on how an employer shall determine its base number of employees for purposes of the credit, maintenance of records, and revocation of county's designation as an enterprise zone. Section R865-91-41 provides instructions for applying for and receiving historic preservation tax credit, and any subsequent carryforwards of

that credit. Section R865-91-42 provides that the order of deducting credits against individual income tax is: 1) nonrefundable credits; 2) nonrefundable credits with a carryforward; and 3) refundable credits. Section R865-91-44 defines "professional athletic team", "member of a professional athletic team," and "duty days" for purposes of apportioning income subject to Utah tax for all professional athletes performing in the state of Utah; provides that a professional athletic team is an employer required to withhold state income tax from the team members. Section R865-91-46 requires medical savings account administrators to file information on each account they administer, along with a reconciliation, with the Tax Commission on an annual basis. Rule outlines the content of the form, along with record keeping requirements and the necessity of each account holder to attached the form to their state return. Section R865-91-47 states that combat pay is excluded from withholding requirements and provides an extension of time to pay income taxes for individuals receiving combat pay. Section R865-91-49 requires the trustee of the Utah Educational Savings Plan Trust to provide trust participants and the Tax Commission with certain information on the status of the participant's account with the trust. Section R865-91-50 indicates when the addition to federal taxable income for interest on certain bonds shall apply. Section R865-91-51 provides conditions under which a withholding tax licensee will be considered to have changed the licensee's business address or ceased to do business. Section R865-91-52 provides that a credit for health benefit plan insurance shall be determined in the manner that provides the greatest possible credit. Section R865-91-53 indicates how a taxpayer shall disclose a reportable transaction to the Commission and how a material advisor shall disclose a reportable transaction to the Commission. Section R865-91-54 provides that, in the absence of fraud, the amount certified as qualifying for the renewable energy systems tax credit shall be the amount allowed by the Commission as a credit. Section R865-91-55 provides that a qualified subchapter S subsidiary shall be treated in the same manner for Utah taxes as it is for federal taxes. Therefore, this rule should be continued.

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:
♦ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

AUTHORIZED BY: Michael Cragun, Tax Commissioner

EFFECTIVE: 01/03/2012

Tax Commission, Auditing **R865-11Q** Self-Insured Employer Assessment

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 35601
FILED: 01/03/2012

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-2-202 requires an annual assessment of employers who are authorized to pay compensation direct; indicates how that assessment shall be calculated.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R865-11Q-1 clarifies when employers need to obtain the experience modification factor, and provides direction for those who fail to obtain the factor within the specified time. Therefore, this rule should be continued.

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:
♦ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

AUTHORIZED BY: Michael Cragun, Tax Commissioner

EFFECTIVE: 01/03/2012

Tax Commission, Auditing **R865-12L** Local Sales and Use Tax

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 35602
FILED: 01/03/2012

**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 59-1-403 requires that all individuals with access to information from tax returns, maintain strict confidentiality with regard to that information. Also provides instances when information may be disclosed or shared. Section 59-12-202 states purpose and intent of local sales and use tax. Section 59-12-204 allows local governments to impose a local sales and use tax and sets forth the provisions that must be included in the ordinance imposing the local sales and use tax. Section 59-12-205 provides that the distribution of local sales and use taxes to local governments shall be based on location where the transaction is consummated and population. Section 59-12-210 requires that the commission provide each county with sales and use tax collection data in order to verify the revenues the commission distributes to them. Section 59-12-210.1 limits a redistribution of sales tax and provides criteria and procedures for an allowed redistribution of sales tax. Section 59-12-302 provides that the transient room tax shall be levied at the same time and collected in the same manner as the local sales and use tax. Section 59-12-354 indicates that the governing body of a municipality may choose to collect the municipality transient room tax or have the Tax Commission collect that tax for it. Section 59-12-401 establishes a resort community tax of up to 1% for towns and cities whose transient room capacity equals or exceeds 66% of the permanent census population and provides certain exemptions to that tax. Section 59-12-602 defines "convention facility" "cultural facility" "recreation facility" and "restaurant" -- all terms necessary for the administration of the tourism, recreation, cultural, and convention facilities tax. Section 59-12-603 provides for the creation of a tourism, recreation, cultural, and convention facilities tax: 1) not to exceed 3 percent on all short-term rentals of motor vehicles not exceeding 30 days; 2) not exceeding 1/2 percent of the rent for every occupancy of a suite room or rooms; and 3) not to exceed 1 percent of all sales of prepared foods and beverages sold by restaurants.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R865-12L-1 provides that all rules made with respect to the state sales and use tax shall apply to the local sales and use tax. Section R865-12L-3 permits

use of sales tax rate charts to determine sales tax due on a taxable sale. Section R865-12L-4 requires that the local sales and use tax be reported to the Tax Commission on a combined return with the state sales and use tax. Section R865-12L-11 outlines the sales tax liability of a person who purchases a motor vehicle from someone other than a licensed dealer. Section R865-12L-14 provides procedures for local governing bodies' review of local sales and use taxes remitted by businesses located within that political subdivision. Rule also provides procedures for corrections for firms omitted from the list of a particular political subdivision or firms listed but not doing business in the jurisdiction of the political subdivision. Section R865-12L-17 defines "primary business," and "retail establishment," and provides guidance necessary to administer the restaurant tax. Section R865-12L-18 clarifies the Tax Commission's exclusive authority to administer and enforce the local sales and use tax, and lists the circumstances under which local governments: 1) shall have access to the Tax Commission records; and 2) may intervene in or appeal from a proposed final Tax Commission action. Therefore, this rule should be continued.

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:
♦ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

AUTHORIZED BY: Michael Cragun, Tax Commissioner

EFFECTIVE: 01/03/2012

**Tax Commission, Auditing
R865-13G
Motor Fuel Tax**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 35603
FILED: 01/03/2012

**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 59-13-201 imposes a motor fuel tax on all motor fuel sold, used, or received for sale in the state. Provides tax exemptions for motor fuel distilled from coal, oil shale, rock asphalt, bituminous sand, or

hydrocarbons located in this state; deliveries to government agencies; and exports. Provides instructions for the distribution of funds. Section 59-13-202 entitles any person who purchases motor fuel for the use of stationary or self propelled machinery used for nonhighway farm operation to a refund of motor fuel tax paid, and provides methods for obtaining the refund. Section 59-13-203.1 requires that any individual desiring to distribute motor fuel in the state of Utah obtain a license from the Tax Commission. Also sets forth requirements of the form of the license application. Requires bonding as a prerequisite for a license; indicates how the amount of the bond shall be determined. Section 59-13-204 states that licensed distributors who receive motor fuel are liable for motor fuel tax, and shall compute the tax on the total taxable amount of motor fuels received. Also provides a method for distributors to sell motor fuel tax exempt to other distributors. Section 59-13-208 requires that every carrier delivering fuel within the state of Utah from outside the state shall report in writing all deliveries made during the past month. Section 59-13-210 allows tax commission to create rules to enforce the motor fuel laws. Requires commission to examine returns and recompute monthly reports of sales, as necessary, estimate the amount of tax due, collect delinquent tax, refund overpayments, and provide for judicial review of dissatisfied taxpayer claims.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R865-13G-1 defines "carrier" with regard to motor fuel deliveries. Requires that every carrier delivering motor fuels within this state submit written reports concerning all deliveries from outside Utah. Section R865-13G-3 provides criteria for determining whether a sale of motor fuel meets the export exemption from motor fuels tax. Rule also requires that each export sale of motor fuel be supported by records. Section R865-13G-5 allows motor fuel dealers that sell motor fuel in wholesale quantities to become a licensed distributor. Allows licensed distributor to purchase motor fuel tax exempt if he satisfies certain conditions. Section R865-13G-6 upon tax commission approval, exempts from motor fuel tax volatile or inflammable liquids that qualify as motor fuels, but are not useable in their present state in internal combustion engines. Section R865-13G-8 clarifies definition of "agricultural purposes", for purposes of allowing tax refund for persons engaged in commercial agricultural work. Section R865-13G-9 clarifies exemption from motor fuel tax for motor fuels refined in Utah from solid hydrocarbons. Section R865-13G-10 provides procedures for distributors that make sales to government agencies to claim the fuel tax exemption for sales to government agencies. Clarifies the exemption from motor fuel tax for sale of motor fuel to Indian tribes and government agencies. Section

R865-13G-11 defines "gross gallon" and "net gallon" for use in calculating motor fuel tax liability. Rule requires that all licensed distributors calculate motor fuel tax using either gross gallon or net gallon basis. Requires distributors to inform tax commission of choice then exclusively use this basis of calculation for 12 months without alternating. Section R865-13G-13 sets procedure for government entities to apply for a refund for motor fuel taxes paid; lists the records required to be maintained for purchases on which the refund is claimed. Section R865-13G-15 provides procedures for administering the reduction of motor fuel tax authorized under Section 59-13-201. Therefore, this rule should be continued.

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:

♦ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

AUTHORIZED BY: Michael Cragun, Tax Commissioner

EFFECTIVE: 01/03/2012

Tax Commission, Auditing
R865-14W
Mineral Producers' Withholding Tax

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 35604
FILED: 01/03/2012

**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 59-6-101 defines terms used in this chapter. Section 59-6-102 requires a producer to withhold an amount equal to 5% of payments made for the production of minerals in this state and provides for a credit for a person from whom payment has been withheld. Section 59-6-103 requires producers to file a return with the commission on forms prescribed by the commission. Section 59-6-104 provides that the provisions of the income tax withholding, Title 59, Chapter 10, Part 4, shall apply to this chapter.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R865-14W-1 defines "working interest owner," "first purchaser," "person," and "producer" with regard to the state mineral producer's withholding tax. Clarifies withholding requirements, who is responsible to pay tax, including unpaid tax, and how claims for credits against the withholding tax should be made. Therefore, this rule should be continued.

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:

◆ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

AUTHORIZED BY: Michael Cragun, Tax Commissioner

EFFECTIVE: 01/03/2012

Tax Commission, Auditing
R865-150
Oil and Gas Tax

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 35605
FILED: 01/03/2012

**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 59-5-101 defines terms related to the oil and gas severance tax. Section 59-5-102 imposes a severance tax on oil and gas; provides an annual exemption from the tax for the first \$50,000 in gross value of each well; provides an exemption from the tax for stripper wells; subjects each owner to the tax in proportion to his ownership interest in the well; and requires producers who take oil or gas in kind pursuant to an agreement on behalf of the owner to report and pay the tax. Section 59-5-104 requires producers engaged in the production of oil or gas

from wells within the state to file an annual return with the Tax Commission prior to June 1.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R865-150-1 defines terms necessary to administration of the severance tax on oil and gas; indicates who must file returns when working interest owners engage in a business arrangement in which someone other than themselves is conducting the operations of an oil or gas lease. Section R865-150-2 indicates how the stripper well exemption applies to a well that produces oil and gas; states that the consecutive 12-month requirement need not fall within one calendar year; indicates how average daily production shall be calculated. Therefore, this rule should be continued.

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:

◆ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

AUTHORIZED BY: Michael Cragun, Tax Commissioner

EFFECTIVE: 01/03/2012

Tax Commission, Auditing
R865-19S
Sales and Use Tax

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 35606
FILED: 01/03/2012

**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 10-1-303 defines terms used in the Municipal Energy Sales and Use Tax Act. Section 10-1-306 grants Tax Commission rulemaking power to

establish the delivered value and the point of sale of taxable energy. Section 10-1-307 establishes a method for collection of municipal energy sales and use tax by the Tax Commission; provides circumstances under which an energy supplier shall pay the tax directly to a municipality. Section 10-1-405 requires the commission to collect the municipal telecommunications license tax pursuant to a uniform interlocal agreement between the municipalities that impose the tax and the commission; requires commission to develop the uniform interlocal agreement by rule. Section 19-6-808 provides guidelines for payment of the waste tire recycling fee. Section 59-12-102 defines terms used in the Sales and Use Tax Act. Section 59-12-103 establishes a sales and use tax base, the state sales tax rate, and earmarking of certain sales tax revenues. Section 59-12-104 lists sales and uses that are exempt from sales and use tax. Section 59-12-104.1 exempts sales made by or to religious or charitable organizations from sales and use tax law. Law provides that the exemption shall, with exceptions, be administered as a refund; requires Tax Commission to promulgate refund procedures by rule. Section 59-12-105 requires certain exempt sales to be reported to the Tax Commission by the owner or purchaser. Provides penalties for failure to report these exempt sales and gives the Tax Commission the right to waive, reduce, or compromise the penalties. Section 59-12-106 requires all persons required by law to collect sales and use tax to have a license issued by the Tax Commission, prior to the collection of tax; requires vendors to obtain an exemption certificate at the time of sale to evidence the sale qualifies for an exemption. Section 59-12-107 requires each vendor with nexus in this state to collect and remit sales and use tax to the Tax Commission, on forms prescribed by the Tax Commission; allows Tax Commission to require security. Law also provides credits for prepaid sales and use tax, and provides penalties for violation of law. Section 59-12-108 requires any vendor whose annual tax liability exceeds \$50,000 for the previous year to file with the Tax Commission on a monthly basis; requires vendors whose annual tax liability exceeds \$96,000 for the previous year to file monthly tax returns by electronic funds transfer; allows vendors required to file monthly to retain a portion of the sales tax they collect; gives Tax Commission rulemaking power for the procedures necessary to determine tax liability for purposes of this section. Section 59-12-109 establishes that confidentiality of sales and use tax returns and other information filed with the Tax Commission is governed by Section 59-1-403. Section 59-12-111 requires all Utah vendors holding a state sales tax license to keep accurate records of all sales made for a period of three years. Law requires them to be accessible to authorized Tax Commission employees upon request. Section 59-12-112 creates a tax lien on any unpaid sales taxes when a business is sold; clarifies the liability of the purchaser of the business when the previous owner has not paid the sales tax. Section 59-12-118 grants the commission exclusive authority to administer, operate, and enforce the provisions of Chapter 12, Sales and Use Tax Act; includes a grant of rulewriting authority to enforce the chapter. Section 59-12-211 requires the commission to promulgate a rule that indicates how to

determine the location of a transaction for the use of computer software at more than one location. Section 59-12-301 allows a county legislative body to impose a transient room tax for every occupancy of public accommodations. Section 59-12-352 allows a municipality to impose a municipal transient room tax for every occupancy of public accommodations. Section 59-12-353 allows a municipality to impose an additional transient room tax for every occupancy of public accommodations to repay bonded or other indebtedness. Section 59-12-1102 allows a county to impose an additional sales and use tax on all taxable transactions; sets forth the procedures a county must follow in order to impose the tax; provides for the distribution of the revenue collected from the imposition of this tax.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R865-19S-1 distinguishes between sales and use taxes. Section R865-19S-2 describes sales and use taxes as transaction taxes rather than taxes on articles sold; explains that purchaser pays the tax, not the vendor. The vendor merely remits the tax to the state. Section R865-19S-4 indicates that, unless otherwise provided by statute, an invoice or receipt shall show sales tax as a separate line item or in the underlying books and records kept in the vendor's ordinary course of business. If vendors collect an excess amount of tax, they must refund the tax to customers or remit excesses to Tax Commission. Indicates circumstances under which an over collection of taxes may be offset against an under collection of taxes. Section R865-19S-7 explains sales tax license requirements for businesses. Outlines rules for business address changes and business closures. Section R865-19S-12 prescribes the basic form for vendor tax returns. Outlines commission rules for timely filing and extensions. Distinguished between annual filing status and quarterly filing status requirement. Explains alternative sales tax deposits (daily, weekly, or monthly) if necessary for the remittance of tax. Section R865-19S-13 explains confidentiality of returns and states that persons requesting a copy of their own tax returns must present proper identification. Section R865-19S-16 clarifies vendor procedure when vendor has collected excess taxes. Section R865-19S-20 defines the term "total sales" for sales tax purposes. Enumerates the circumstances under which the Tax Commission will give adjustments and credits. Vendor commissions are not deductible. Section R865-19S-22 describes the proper method of sales and use tax record keeping for retailers, lessees, and lessors. Discusses proper microfilm and microfiche methods and ADP accounting system records. Explains Tax Commission prerogatives if records are not prepared and maintained in the prescribed manner. Section R865-19S-23 describes the exemption certificate requirement for vendors of exempt tangible

personal property. Section R865-19S-25 requires sales tax license holders to return tax licenses for cancellation upon sales of business. Requires sales tax license holders to retain business records for three years after discontinuation of business. Section R865-19S-30 lists the evidence required for calculating sales and use tax for vehicle sales with or without a trade-in vehicle used as partial payment. Section R865-19S-31 time and place of sale determined by contract between seller and buyer. The intent of the parties is subject to generally accepted contract law. Section R865-19S-32 explains sales tax implications for leases, rentals, and conditional sales leases. Provides examples of taxable leases. Section R865-19S-33 defines "admissions," "annual membership dues," and "season passes;" clarifies what is not an admission; states that amounts paid for activities that are not admissions must be separately stated on the invoice. Section R865-19S-34 defines "place of amusement" as a definite location. Admission is subject to tax even though the charge includes the right to participate in an activity. Section R865-19S-35 clarifies definition of "residential use" to include nursing homes. Definition of "fuels" does not include explosives. Taxable status of fuel furnished through a single meter is determined by its predominant use. Section R865-19S-37 defines "commercials," "audio tapes," "video tapes," "motion picture exhibitor," and "distributor." Section R865-19S-38 clarifies definition of "isolated or occasional" sales. Section R865-19S-40 sales tax exemption for agricultural produce/agricultural products exchanges explained. Section R865-19S-41 clarifies, for purposes of the sales tax exemption for the U. S. government, when a sale is made to the U. S. government. Section R865-19S-42 clarifies when a sale is made to "state of Utah" for exemption purposes. Section R865-19S-43 outlines exemption qualification requirements for religious or charitable institutions. Section R865-19S-44 explains meaning of "sales made in interstate commerce." Section R865-19S-48 explains that returnable containers are not exempt from sales tax (although non-returnable containers are). Containers sold for final use to the consumer are not exempt. Deposits on containers are subject to sales tax; retailer may take tax credit if deposit refund is made to customer. Section R865-19S-49 defines "farming operations" for purposes of the agricultural exemption; food, medicine, and supplies for animals in agricultural use exempt from sales tax. Fur bearing animals raised for fur are exempt agricultural products. These exemptions are only applicable to commercial farming operations. Purchaser must supply exemption certificate to vendor. Explains that poultry, eggs, and dairy products are not seasonal products under Subsection 59-12-104 (21). Section R865-19S-50 defines flowers, trees bouquets, plants, etc. as agricultural products. Explains tax rules for florist telegraphic deliveries. Florist receiving the order from the buyer must collect tax. Section R865-19S-51 clarifies tax rules for manufacturing and assembling labor on tangible personal property. Sale of the personal property itself is not exempt unless specifically exempted. Section R865-19S-53 sales by finance companies of tangible personal property acquired by repossession or foreclosure are subject to tax. Section R865-19S-54 explains governmental sales tax

exemption and lists state and federal governmental entities exempt from tax. Section R865-19S-56 explains that sales by employers to employees are generally subject to sales tax. Section R865-19S-57 retail sales of ice are taxable. Ice to be re-sold is not taxable. Contract sales of ice to railroads or freight lines are taxable; no deduction for services is allowed. Section R865-19S-58 explains that construction materials are taxable to contractor or repairman if contractor or repairman converts them to real property. Defines "construction materials." Sales of materials to contractors are taxable; sale of completed real property is not. Contractor is the final consumer when contractor converts tangible personal property to real property. Defines conditions under which sales of construction materials to religious or charitable institutions are exempt. Provides examples of items that remain tangible personal property even when attached to real property (and hence are taxable). Section R865-19S-59 defines sales of tangible personal property to repair persons or renovators as "for resale" sales, and therefore exempt. Sales of supplies consumed by repair persons or renovators are taxable. Section R865-19S-60 explains that items sold to businesses for use in carrying on business are taxable. Gives examples of office supplies, trade fixtures, etc. that are subject to tax. Section R865-19S-61 clarifies definition of tax exempt meal sales. Meals available to general public not exempt. Defines "available to general public." Section R865-19S-62 meal tickets, coupon books, and merchandise cards, sold by persons engaged in selling those items, are taxable. Explains collection procedure. Section R865-19S-63 defines tombstones and grave markers as improvements to real property. Defines tax rules for sales of these items. Section R865-19S-65 clarifies tax rules for newspaper sales. Defines "newspaper" for tax exemption purposes. Explains rules for advertising inserts. Section R865-19S-66 distinguishes between services rendered and tangible personal property sold by optometrists, ophthalmologists, and opticians. Services are not taxable, but sales of the tangible personal property are taxable. Section R865-19S-68 defines premiums, gifts, rebates, and coupons as taxable tangible personal property. Explains tax rules for donations of these items. Section R865-19S-70 defines persons who render services (doctors, dentists, barbers, or beauticians) as the consumers of the tangible personal property dispensed during their services. Section R865-19S-72 explains sales tax exemption for trade-ins and exchanges of tangible personal property. Section R865-19S-73 explains the responsibility of trustees, receivers, executors, administrators, etc. of collecting and remitting sales tax on all taxable sales, including those made at liquidation. Section R865-19S-74 defines vending machine operators as retailers. Defines "cost" for the purposes of the 150% cost formula in Section 59-12-104(3). Requires vending machine operators to secure a sales tax license and to display license number on each vending machine. Section R865-19S-75 defines sales by photographers, photofinishers, and photostat producers as sales of tangible personal property. Requires these persons to collect tax on their services and on sales of related tangible personal property. Section R865-19S-76 defines charges for painting, polishing, washing, cleaning, and waxing tangible

personal property as subject to tax, with no deduction allowed for the service involved. Explains that sales of items used in providing these services are subject to tax. Section R865-19S-78 explains that labor charges for installation, repair, renovation, and cleaning of tangible personal property are taxable; labor charges for installation of tangible personal property that becomes real property are not subject to tax. (Clarifies Subsection 59-12-103(1)(g)). Section R865-19S-79 defines "tourist home," "hotel," "motel," "trailer court," "trailer," and "accommodations and service charges." Section R865-19S-80 Defines "Pre-press materials" and "printer." Describes sales tax liability for sales and purchases made by printers. Section R865-19S-81 explains that the sale of artwork is taxable. Purchase of art supplies that become part of the finished product may be purchased tax free. Section R865-19S-82 outlines sales tax rules for items used for display, trial, or demonstration. Tangible personal property used for display, trial, or demonstration is not subject to tax. Demonstration items used primarily for company or personal use are subject to tax. Section R865-19S-83 describes procedure for tax reimbursement of purchases for construction of pollution control facilities. Provides that after a pollution control facility is certified qualifying purchases should be made tax exempt. Section R865-19S-85 defines "establishment," "machinery and equipment" and "manufacturer," for the purpose of the exemption for new and expanding operations and normal operating replacements; indicates when different activities performed at a single location constitute a separate and distinct establishment. Section R865-19S-86 outlines procedures for mandatory filers, defines "mandatory filer" and related terms; describes criteria for vendor reimbursement of the cost of collecting and remitting sales taxes. Delineates procedures for Electronic Funds Transfer (EFT) remittance of sales taxes. Section R865-19S-87 defines "tooling," "special tooling," "support equipment," and "special test equipment" for purposes of the aerospace or electronics industry contract exemption set forth in Section 59-12-104. Section R865-19S-90 defines "interstate," "intrastate," and "two-way transmission" for purposes of Section 59-12-103. Enumerates taxable telephone services and gives examples of nontaxable charges. Section R865-19S-91 explains that sales to government contractors are subject to sales tax if the contractor uses or consumes the property. Lists criteria for qualification as a purchasing agent for a government entity. Section R865-19S-92 defines "computer generated output;" indicates that prewritten computer software is subject to sales tax regardless of the form in which it is transferred; indicates that custom computer software is exempt from sales tax regardless of the form in which it is transferred. Section R865-19S-93 describes procedure for payment of waste tire recycling fees and clarifies what sales of tires are subject to the fee. Section R865-19S-94 distinguishes between taxable and non-taxable tips, gratuities, and cover charges at restaurants, cafes, and clubs. Section R865-19S-96 outlines assessment of the transient room tax. Section R865-19S-98 defines "use" for purposes of vehicle sales tax exemption for nonresidents. Describes qualifications for nonresident status. Describes qualifications for vehicles deemed not used in this

state. Section R865-19S-99 explains that vehicles purchased in another state are exempt from Utah sales tax if sales tax has been paid in another state. Registration card from another state serves as evidence of such payment. Section R865-19S-100 explains procedures for sales tax exemptions and refunds for religious and charitable organizations. Section R865-19S-101 explains that document preparation fees assessed for motor vehicle sales are exempt from sales tax if separately identified and not included in the vehicle sale price. Section R865-19S-102 states that ski resorts that do not have a separate meter for their exempt purchases shall determine a methodology to calculate exempt electricity purchases, and to receive Tax Commission approval prior to using that methodology. Section R865-19S-103 defines "gas" and "supplying taxable energy" for purposes of the municipal energy sales and use tax. Also defines "delivered value" and "point of sale" of taxable energy. Sets forth responsibilities of an energy supplier and a user of taxable energy. Section R865-19S-104 clarifies that the annual distribution of the county option sales tax shall be based on a calendar year; adjustments shall be reflected in the February distribution. Section R865-19S-108 defines "user fee" for purposes of sales and use tax on admission or user fees. Section R865-19S-109 distinguishes between the taxable and non-taxable status of purchases and sales made by a veterinarian; provides that if a sale by a veterinarian includes both taxable and nontaxable items, the nontaxable items must be separately stated or the entire invoice is subject to tax. Section R865-19S-110 defines "advertiser." Clarifies taxable status of purchases and sales made by advertisers. Section R865-19S-111 clarifies when a graphic design service is nontaxable; provides that a vendor who provides both nontaxable graphic design services and taxable tangible personal property must separately state nontaxable amounts or the entire sale is taxable. Section R865-19S-113 defines "federal airway;" indicates when amounts paid for aircraft or watercraft tours are exempt from sales tax; indicates when sales tax shall be collected in Utah for a service that occurs in Utah and another state. Section R865-19S-114 defines items that constitute clothing in accordance with the Streamlined Sales and Use Tax Agreement. Section R865-19S-115 defines items that constitute protective equipment in accordance with the Streamlined Sales and Use Tax Agreement. Section R865-19S-116 defines items that constitute sports or recreational equipment in accordance with the Streamlined Sales and Use Tax Agreement. Section R865-19S-117 provides guidelines for rounding the computation of sales tax. Section R865-19S-118 provides the terms of the uniform interlocal agreement that governs the commission's administration of the municipal telecommunications license tax. Section R865-19S-120 defines terms for the sales tax exemption relating to film, television, and video; indicates transactions that do not qualify for the sales tax exemption. Section R865-19S-121 defines terms for purposes of the sales tax exemption for certain purchases by a mining facility; indicates the items the exemption applies to. Section R865-19S-122 defines terms for purposes of the sales tax exemption for certain purchases by a web search portal establishment; indicates the items the exemption applies to.

Therefore, this rule should be continued.

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:

♦ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

AUTHORIZED BY: Michael Cragun, Tax Commissioner

EFFECTIVE: 01/03/2012

Tax Commission, Auditing **R865-20T** Tobacco Tax

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 35607
FILED: 01/03/2012

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 59-14-102 defines terms for purposes of cigarette and tobacco tax and licensing. Section 59-14-202 requires that cigarette licenses be issued only to a person owning or operating the place where cigarette vending machine sales are made. Requires a separate license for each location sales are made. Provides instructions pertaining to license issuance. Section 59-14-203.5 requires the commission to suspend or revoke licenses to sell cigarettes upon notice that a licensee has sold cigarettes 3 or more times to a person under 19; indicates that a revocation shall last for one year. Section 59-14-204 imposes a cigarette tax and provides the rates of the tax imposed. States that the tax shall be imposed upon the first purchase of cigarettes in the state. Section 59-14-205 provides that the cigarette tax shall be paid by affixing stamps on cigarettes, unless otherwise provided in rule by the Tax Commission. Requires that all cigarettes sold in the state of Utah be stamped within 72 hours of their receipt in the state and prior to sale in Utah. Allows Tax Commission to draft rules allowing cigarettes to remain unstamped in the hands of the wholesaler or distributor under certain conditions. Law also gives the Tax Commission authority to create rules aiding in the enforcement and collection of cigarette tax. Section 59-14-212 requires all manufacturers, distributors, or retailers

that affix a stamp to imported cigarettes to provide certain information to the Tax Commission regarding those imported cigarettes; indicates that the required information shall be reported on a quarterly basis; provides a penalty for failure to comply. Section 59-14-301 requires all manufacturers, distributors, and retailers of tobacco products to register with the Tax Commission. Requires persons subject to this section to post a bond as a prerequisite to registering. Section 59-14-301.5 requires the commission to suspend or revoke licenses to sell tobacco upon notice that a licensee has sold tobacco 3 or more times to a person under 19; indicates that a revocation shall last for one year. Section 59-14-302 imposes a tax on the sale, use, or storage of tobacco products in Utah. The tax is imposed on the first purchase of the product in Utah. Section 59-14-401 allows a refund of cigarette tax on cigarettes and tobacco products sold outside of the state of Utah to a regular dealer in these articles. Section 59-14-404 gives Tax Commission authority to enter on the premises of a taxpayer to examine books and papers pertaining to the cigarette or tobacco products tax, or to secure any information directly or indirectly concerned with the enforcement of Chapter 14. Section 59-14-603 requires the commission to publish in its website a directory of cigarettes approved for stamping and sale in the state. Section 59-14-607 authorizes the commission to promulgate rules to enforce the cigarette and Tobacco Tax and Licensing Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R865-20T-1 clarifies that the cigarette tax and tobacco products tax are imposed upon the first purchase, use, storage, or consumption in the state, and clarifies that no tax is due from a nonresident or tourist who purchases cigarettes outside the state for use, storage, or consumption inside the state. Section R865-20T-3 states that each vending machine selling tobacco is to be licensed as a separate place of business. The license will be posted in a conspicuous place on the machine. Rule also provides guidelines for application for license and to change the place of business. Section R865-20T-5 sellers of tobacco products not required to post bond if previous seller has paid the tax on the products; indicates how the amount of the bond shall be calculated. Section R865-20T-7 clarifies that sales of cigarettes and tobacco products to vendors outside the state are not subject to this tax. Rule also provides guidelines on records that must be maintained to evidence this exemption. Section R865-20T-8 requires manufacturers, jobbers, distributors, wholesalers, retailers, users, or consumers of tobacco products or cigarettes to keep records necessary to determine the amount of tax due on the sale and consumption of these products for a period of three years. Section R865-20T-9 allows inventories of cigarettes held by

manufacturers to be delivered to wholesalers or jobbers without being stamped. Records of those deliveries must be kept with information provided in the rule, and made available to the Tax Commission. Section R865-20T-10 provides guidelines to renew a cigarette and tobacco products license or to reinstate a revoked or suspended license. Section R865-20T-11 allows manufacturers, distributors, wholesalers, and retailers that are required to provide, on a quarterly basis, a copy of the importer's federal import permit and customs form, to exclude those items from enclosure with their quarterly report so long as that information is kept in their records, and provided to the Tax Commission upon request. Section R865-20T-12 defines a "counterfeit stamp" for purposes of the definition of a "counterfeit cigarette." Section R865-20T-13 indicates how the moisture content of a tobacco product shall be measured and how the tax on moist snuff shall be calculated. Section R865-20T-14 indicates how the directory of cigarettes approved for stamping and sale in the state shall be updated. Therefore, this rule should be continued.

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:

♦ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

AUTHORIZED BY: Michael Cragun, Tax Commissioner

EFFECTIVE: 01/03/2012

Tax Commission, Motor Vehicle **R873-22M** Motor Vehicle

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 35608
FILED: 01/03/2012

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 41-1a-104 grants the Tax Commission power to enter into agreements with other jurisdictions concerning the registration, administration, and enforcement of motor vehicle laws. Section 41-1a-108 requires the Motor Vehicle Division to examine and determine

the genuineness of application for registration, titling, and plating of vehicles, vessels, or outboard motors. Section 41-1a-116 allows the Tax Commission to disclose protected motor vehicle records for purposes of advisory notices; allows Tax Commission by rule, to provide for telephone access to records. Section 41-1a-211 allows the Motor Vehicle Division to grant a temporary permit for vehicles that are in the process of registration. Section 41-1a-214 requires owner of a vehicle to sign the registration card, keep it in the vehicle at all times, and to display the card to authorized state personnel upon request. Section 41-1a-215 states general rule that all registrations shall be for a 12-month period beginning with the day of registration, and provides exemptions. Section 41-1a-401 requires vehicles to have two license plates, requires division to set specifications for license plate materials and manufacture. Section 41-1a-402 license plates shall be in colors selected by the Tax Commission and shall display the name of the state, a designation of the county in which the vehicle is registered, the date of expiration, the registration number assigned to the vehicle, and a slogan. Section 41-1a-411 requires individuals to apply for personalized license plates; provides that the Tax Commission may refuse a personalized plate in certain circumstances. Section 41-1a-413 persons who have been issued personalized plates must either apply to display the plates on another vehicle, or surrender the plates to the Motor Vehicle Division upon sale, trade, or release of ownership on the original vehicle. Section 41-1a-414 requires that persons with disabilities qualifying under Tax Commission rules carry an appropriately marked license plate or windshield placard in order to take advantage of parking space for disabled. Section 41-1a-416 allows individuals owning vehicles built before 1973 to apply for an original issue license plate of the format and type issued by the state in the year as the model year of the vehicle. Section 41-1a-418 lists the special group license plates authorized by law. Section 41-1a-419 indicates how the division shall design special group license plates. Allows the owner of a vehicle that is forty years or older with a horseless carriage plate issued prior to 07/01/1992 the privilege of exchanging it for a vintage vehicle special group license plate issued after 07/01/1992. Section 41-1a-420 requires the division to issue a disability special group license plate or windshield placard in accordance with federal law. Indicates where a removable placard shall be placed on the vehicle. Section 41-1a-421 lists the honor special group license plates and criteria necessary to qualify for these plates. Section 41-1a-422 provides a definition of "private institution of higher education," and "standard collegiate degree" for purposes of collegiate license plates. Section 41-1a-522 requires Tax Commission to establish a record of a nonconforming vehicle and print "manufacturer buy back nonconforming vehicle" clearly on the new certificate of title. Section 41-1a-701 provides that when a vehicle is sold, its registration expires; requires that a vehicle owner remove the license plates and either forward them to the Motor Vehicle Division for destruction, or have them transferred to another vehicle when the owner relinquishes ownership of the vehicle. Section 41-1a-801 provides a state vehicle inspection number (VIN) if the original VIN is altered or destroyed; requires

owner to apply for state-issued VIN with information required by Tax Commission. Section 41-1a-1001 provides definitions necessary for implementation of salvage vehicle unbranding laws. Section 41-1a-1002 provides requirements for obtaining an unbranded title to a salvage vehicle, including interim inspections. Requires damage to be repaired pursuant to standards set by the Motor Vehicle Enforcement Division. Section 41-1a-1004 if a vehicle is branded as rebuilt or restored to operation, in a flood, or not restored to operation, before a transfer of ownership, the new title to the vehicle should mirror the existing brand. Section 41-1a-1005 requires the commission to promulgate rules establishing the requirements for an insurance company to prove it has complied with the criteria necessary to issue a salvage certificate for a vehicle. Sections 41-1a-1009 through 41-1a-1011 provide a definition of "abandoned vehicle", and the process that the Tax Commission must take to dispose of vehicles meeting the criteria. Section 41-1a-1010 requires a person to obtain a permit to scrap, dismantle, destroy, or change a vehicle; allows the Tax Commission to collect a fee for inspection of vehicles for which the permit has been obtained; indicates when a permit to dismantle may be rescinded. Section 41-1a-1101 authorizes the division or any peace officer to take possession of any vehicle without a warrant under certain circumstances; authorizes the tax commission to make rules for establishing standards for impound lots, impound yards, and public garages. Section 41-1a-1211 sets fees for license plates, personalized license plates, and special group license plates. Section 53-8-205 requires a safety inspection to be performed on motor vehicles, with some exceptions; indicates frequency of required safety inspection. Section 72-10-102 defines terms under the uniform aeronautical regulatory act. Section 72-10-109 requires that persons operating, piloting, or navigating an aircraft in Utah have proper registration; indicates instances when registration is not required. Section 72-10-112 subjects persons who fail to properly register aircraft to the same penalties provided for failure to register motor vehicles.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R873-22M-2 clarifies documentation necessary for registration or titling of vehicles under unique circumstances. Section R873-22M-7 specifies procedures for transfer of license plates from one vehicle to another; provides a method for determining additional registration fees if the gross laden weight of a vehicle registered by gross laden weight increases during the registration year. Section R873-22M-8 clarifies when a registration issued for a period of three, six, or nine calendar months expires. Section R873-22M-11 allows a driver to carry a copy of the original registration card in lieu of the original in state-owned or state-leased vehicles. Section R873-22M-14 clarifies positioning of

decals on license plates. Section R873-22M-15 sets forth procedures for applying for a state-issued vehicle identification number (VIN) if the original VIN has been removed or altered or if one never existed. Rule also states where a state-issued VIN shall be placed on the vehicle. Rule also sets forth specifications for state-issued VIN. Section R873-22M-16 establishes requirements for: 1) a lien holder who repossesses a motor vehicle to obtain title on that vehicle; 2) recording a new lien; and 3) issuing a new certificate of title showing the assignee as lienholder. Section R873-22M-17 provides criteria that an impound lot must meet to be used by the state of Utah. Section R873-22M-20 defines "aircraft;" provides that aircraft subject to FAA registration shall be registered in Utah; provides a registration period; aircraft assessed as part of an airline by the Tax Commission are exempt from registration; requires a decal to be placed on a registered aircraft. Section R873-22M-22 allows an out-of-state branded vehicle to be issued a comparable Utah branded title; Utah registration expires when a vehicle qualifies for a title brand; defines "cost to repair or restore a vehicle for safe operation" for purposes of unbranding a vehicle. Section R873-22M-24 provides definitions of "cosmetic repairs" and "collision estimating guide recognized by the Motor Vehicle Enforcement Division" for purposes of unbranding salvage vehicles. Section R873-22M-25 requires written notification that a vehicle has been issued a salvage certificate or branded title to a prospective buyer on a form provided by the Motor Vehicle Enforcement Division; states where the form must be displayed if the seller is a dealer. Section R873-22M-26 states that a certified vehicle inspector shall determine if an interim inspection is needed; vehicles repaired beyond the point of a required interim inspection may not be unbranded if the interim inspection has not been performed; provides guidelines on when a repair may qualify a vehicle to receive an unbranded title. Persons performing the inspection must have an I-CAR certification. Section R873-22M-27 sets forth requirements individuals must meet to qualify for special group license plates. Section R873-22M-28 allows the owner of a vehicle that is forty years or older with a horseless carriage plate issued prior to 07/01/1992 the privilege of exchanging it for a vintage vehicle special group license plate issued after 07/01/1992. Section R873-22M-29 details what a removable and a temporary removable disabled windshield placard shall look like; provides when the windshield placard may be issued and where it must be placed in the vehicle. Section R873-22M-30 defines the term "series" with regard to the issuance of an original issue license plate; states that the numeric code on the original issue license plate cannot mirror a numeric code on a license plate already in existence. Section R873-22M-32 defines certificate of title with regard to section 41-1a-1010 of Utah Code. Requires an applicant with a vehicle eligible for retitling under section 41-1a-1010 to receive a title consistent with the title at the time of application for a permit to dismantle. Section R873-22M-33 provides a definition of "private institution of higher education" and "standard collegiate degree" for purposes of collegiate license plates. Section R873-22M-34 states conditions under which a personalized license plate may not be issued. Allows an

applicant the right to request a review of the denial; provides procedures for review. Section R873-22M-35 if the user of a personalized plate fails to renew the plate within one year of the expiration, the plate will be considered surrendered to the division and the plate may be reissued to a new requestor. Section R873-22M-36 defines "advisory notice" and provides the procedures necessary to access protected motor vehicle records by telephone or in person. Section R873-22M-40 provides a method to determine the age of a vehicle for purposes of determining the frequency of the state safety inspection required under Section 53-8-205. Section R873-22M-41 indicates when the commission shall issue a salvage certificate for a vehicle to an insurance company. Therefore, this rule should be continued.

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

TAX COMMISSION
MOTOR VEHICLE
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

AUTHORIZED BY: Michael Cragun, Tax Commissioner

EFFECTIVE: 01/03/2012

Tax Commission, Motor Vehicle Enforcement **R877-23V** Motor Vehicle Enforcement

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 35609
FILED: 01/03/2012

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 41-3-105 gives rulemaking authority to motor vehicle enforcement administrator to carry out the purposes of the chapter; details information that a license application shall contain; gives administrator rulemaking authority to require signs; sets forth duties of the administrator and the division. Section 41-3-201 requires that all dealers, salespersons, manufacturers, transporters, dismantlers, distributors, factory branch distributors, distributor branch and representative, crushers,

remanufactures, and body shops operating in Utah have a license issued by the administrator. Section 41-3-202 establishes scope of operation allowed businesses that receive and operate under licenses issued by the motor vehicle enforcement division. Section 41-3-210 sets forth a list of prohibitions for license holders; requires licensees to maintain records. Section 41-3-301 requires dealers to submit a title, within 45 days of sale, to the motor vehicle enforcement division; requires dealers to provide certain information to the motor vehicle enforcement division within 45 days of issuance of a temporary permit. Section 41-3-302 allows a dealer to issue a temporary registration permit to persons purchasing a vehicle, pursuant to Tax Commission rule. Permits are good for 45 days. Dealers are responsible and liable for registration of each motor vehicle for which a permit is issued. Section 41-3-305 if an applicant meets criteria established in rule by the Tax Commission, law allows motor vehicle division to issue in-transit permits for the use of highways for a time period not to exceed ninety-six hours. Section 41-3-507 requires license holders to keep a written record of special plates they issue; states what must be included in the record; requires that lost or stolen special plates be reported immediately to the motor vehicle enforcement division.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R877-23V-3 prohibits holders of a dealer license from working as a salesperson for another dealer. Rule does allow dealership owners to engage as no-fee salespersons for their own dealerships. Section R877-23V-5 establishes guidelines for issuance, placement, and records of temporary motor vehicle registration permits and extension permits issued by dealers. Section R877-23V-6 clarifies issuance of in-transit permits for piggybacked semi tractors. Section R877-23V-7 sets forth standards of practice for advertising and sale of motor vehicles. Section R877-23V-8 requires all dealers, dismantlers, manufacturers, remanufactures, transporters, crushers, and body shops to post a legible sign at principal and additional places of business; requires these entities to identify their vehicles through signage on the vehicles. Section R877-23V-10 requires all automobile manufacturers licensed in Utah, to comply with federal vehicle identification number (VIN) requirements. Section R877-23V-11 requires all persons licensed under section 41-3-202 to notify the motor vehicle enforcement division immediately of any change in ownership, address, or circumstance relating to its fitness to be licensed. Section R877-23V-12 establishes criteria that must be met before the issuance of a motor vehicle related license. Section R877-23V-14 requires a dealer issuing temporary permits to segregate and identify state mandated fees. Rule also requires dealer to post a visible and

prominent sign if the dealer charges a customer a dealer documentary service fee. Section R877-23V-16 provides that a lost or stolen special plate may be replaced only after it has expired; requires a replaced special plate to be included in the calculation of special plates under 41-3-503. Section R877-23V-18 outlines qualifications for a salvage vehicle buyer license and evidence needed to support those qualifications. Therefore, this rule should be continued.

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

TAX COMMISSION
MOTOR VEHICLE ENFORCEMENT
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

AUTHORIZED BY: Michael Cragun, Tax Commissioner

EFFECTIVE: 01/03/2012

Tax Commission, Property Tax **R884-24P** Property Tax

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 35592
FILED: 01/03/2012

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 11-13-302 requires a project entity created under the Interlocal Cooperation Act to pay a fee to each taxing jurisdiction in lieu of ad valorem property tax. Section also provides methods for calculation, collection and distribution of the fee. Renumbered. Section 41-1a-301 provides procedures for apportioned registration and licensing of interstate commercial vehicles. Section 59-2-102 provides definitions relating to property tax. Section 59-2-103 requires that all residential property be assessed at a uniform and equal rate on the basis of its fair market value; provides for a residential exemption. Section 59-2-103.5 provides procedures for a property owner to obtain an exemption from property tax for residential property. Section 59-2-201 requires the Tax Commission to determine the fair market value of specified property; provides a methodology for determining fair market value of productive mining property; requires Tax Commission to notify the property

owner and the assessor of the assessment. Section 59-2-210 indicates how tax on mining property shall be collected; allows withholding of royalty payments as detailed in Tax Commission rule. Section 59-2-211 to ensure payment and collection of ad valorem property tax, law allows the Tax Commission to collect a security, in an amount determined by the Tax Commission, from firms mining uranium and vanadium. Section 59-2-301 requires the county assessor to assess all property in the county that is not lawfully assessed by the Tax Commission. Section 59-2-301.3 defines "low-income housing covenant" and requires a county assessor to include in a property assessment, any effects a low-income housing covenant may have on the fair market value of a property subject to the covenant. Section 59-2-302 provides that assessments made by the county assessor or the Tax Commission are the only basis of property taxation for political subdivisions of the state. Section 59-2-303 requires the assessor to assess all property subject to taxation to the owner of the property as of January 1. Section 59-2-305 requires county assessor to list all property according to its fair market value. Allows Tax Commission to proscribe procedures and formats that will provide uniformity to property listing. Section 59-2-306 authorizes a county assessor to require a signed statement regarding real and personal property that may be assessed, and the county in which the property is located. Section 59-2-402 requires that a proportional assessment be made to property tax if a piece of taxable transitory personal property is brought into the state after the assessment date; gives Tax Commission rulemaking authority to implement proportional assessment; exempts certain property from proportional assessment. Section 59-2-405 imposes a statewide uniform fee of 1.5 percent of the fair market value of motor vehicles not subject to Section 59-2-405.1, and to watercraft, recreational vehicles, and all other tangible personal property; requires Tax Commission to establish fair market value. Section 59-2-405.1 imposes a statewide uniform fee for vehicles under 12,000 pounds based on the age of the vehicle. Section 59-2-406 requires the Tax Commission to enter into a contract with each county; pursuant to this contract, either the Tax Commission or the county will collect all state and local fees due on the vehicles; requires the contract to contain performance standards; gives rulemaking authority to the Tax Commission. Section 59-2-508 (2) outlines the application process to have land valued, assessed, and taxed as land in agricultural use. Section 59-2-515 allows the Tax Commission rulemaking authority to effectively administer the valuation of agricultural property. Section 59-2-701 requires that all persons conducting appraisals of property for fair market value of real property for the assessment roll in Utah hold an appraisers certificate or registration issued by the Division of Real Estate. Allows Tax Commission to prescribe qualifications for persons performing appraisals. Section 59-2-702 requires the Tax Commission to conduct training and continuing education programs to educate appraisers and county assessors. Section 59-2-704 requires the Tax Commission to conduct and publish studies to determine the relationship between market value shown on the assessment role and the market value of real property in each county.

The Tax Commission shall order counties to adjust assessment rates to coincide with the studies; allows Tax Commission to conduct appraisals in a county with insufficient sales data. Section 59-2-704.5 requires the Tax Commission to adopt, by rule, standards for determining acceptable assessment levels and valuation deviations within each county. Section 59-2-705 requires the Tax Commission to provide qualified personal property appraisers to the county to aid in the audit of taxable personal property in the county. Section 59-2-801 provides a methodology for the Tax Commission to apportion the assessment of property assessed by it. Section 59-2-918.5 prohibits a taxing entity from imposing a judgment levy without advertising that intent and holding a public hearing on the matter; provides a required format for the advertisement. Section 59-2-919 prohibits a tax rate in excess of the certified tax rate unless the taxing entity approves a resolution after first advertising that intent; provides a required format for the notice of the proposed tax increase; requires the county auditor to notify all owners of real property, prior to July 22, of a hearing on the proposed increase; sets forth guidelines for the hearing. Section 59-2-919.1 requires a county auditor to provide a notice by mail to each property owner, on or before July 22, and prescribes the form and content of that notice. Section 59-2-924 requires the county assessor to report the valuation of property within the county to the county auditor and the Tax Commission, and requires the county auditor to report that information, along with the certified tax rate, to each taxing entity; defines certified tax rate and indicates how the certified tax rate shall be determined; requires the county auditor to notify all property owners of any intent to exceed the certified tax rate. Section 59-2-1004 allows a taxpayer dissatisfied with a valuation or equalization to appeal to the board of equalization; requires the county board of equalization to hold public hearings; allows a taxpayer to appeal the decision of the board of equalization to the Tax Commission. Section 59-2-1101 exempts the owner of certain property from taxation; requires an owner to file an affidavit, if required by the Tax Commission, in order to receive exempt status for the property value. Section 59-2-1101(d) provides that property owned by a nonprofit entity and used exclusively for religious purposes is exempt from tax. Section 59-2-1102 provides the manner in which a county board of equalization shall determine whether certain property within the county is exempt from taxation. Section 59-2-1104 defines "residence;" exempts from property tax certain property owned by disabled veterans or their unmarried surviving spouses and minor orphans. Section 59-2-1106 exempts from property tax certain property owned by blind persons or their unmarried surviving spouses or minor orphans; authorizes county to provide refunds for those qualifying for this exemption. Sections 59-2-1107 through 59-2-1109 authorize a county to defer or abate taxes paid by indigent persons. Section 59-2-1113 exempts household furnishings, furniture, and equipment that are used exclusively by the owner at the owner's place of residence from property tax. Section 59-2-1115 indicates tangible personal property that is exempt from taxation, and allows the commission to make rules to implement the section. Subsection 59-2-1202 (5) defines

"household income" for purposes of the homeowner's and renter's property tax credits. Section 59-2-1317 requires the treasurer to collect the taxes and furnish tax notices to taxpayers; indicates the information that shall be included on the notice. Section 59-2-1328 requires the payment of refunds and interest if a tax paid under protest was unlawfully collected; allows a taxing entity to impose a judgment levy to pay its share of eligible judgments. Section 59-2-1330 provides that if a board of equalization, court, or the commission orders a reduction in the tax on a property, the taxpayer shall receive a refund of that tax, plus interest; provides an interest rate for refunds and sets a time within which the refund and interest must be paid; allows a taxing entity to impose a judgment levy to pay its share of eligible judgments. Section 59-2-1347 allows the county legislative body and the Tax Commission the right to defer or adjust the property tax of an individual if it is determined that it is in the best interest of the state or the county; provides procedures for applying for deferral; requires county legislative body or the Tax Commission to post notice of any deferrals or adjustments. Section 59-2-1351.1 provides procedures for sale of personal property seized as a result of failure to pay property tax; includes notice requirements for sale of the property.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R884-24P-5 defines "household income" with regard to property tax abatements or deferrals for indigent persons; states that absence from residence due to vacation, confinement to hospital or other temporary situations shall not be deducted from the ten-month residency requirement of Section 59-2-1109. Section R884-24P-7 defines terms; provides a methodology for assessment of mining properties. Section R884-24P-10 defines terms and provides methodology necessary for taxation of underground rights in land that contains deposits of oil or gas; also provides for withholding of these taxes. Section R884-24P-14 requires assessor to consider preservation easements when valuing historically significant real property and structures; also requires property owner to inform assessor of the preservation easement. Section R884-24P-16 defines terms and provides a methodology for valuing Interlocal Cooperation Act project entity properties. Refers to Section 11-13-25 which is renumbered. Section R884-24P-19 sets forth the ad valorem training and designation program. Section R884-24P-20 defines terms concerning the appraisal of property under construction and provides methodology for valuing that property. Section R884-24P-24 sets forth form county auditor must use to notify real property owners of property valuation and tax changes; provides guidelines to be used in determining new growth, the certified tax rate, and increase in property tax revenues. Section R884-24P-27

defines terms related to the standards of assessment performance; sets forth standards of assessment performance regarding assessment level and uniformity; states when corrective action is necessary; and provides an alternate performance evaluation. Section R884-24P-28 sets forth a procedure for reporting heavy equipment leased or rented during the tax year. Section R884-24P-29 states situations when household furnishings, furniture and equipment are subject to property tax. Section R884-24P-32 clarifies that leasehold improvements shall be included in the value of the underlying real property and assessed to the owner of the underlying real property unless the underlying real property is owned by an exempt entity. Section R884-24P-33 defines terms; provides percent good schedules for all personal property to be used to arrive at the property's taxable value. Section R884-24P-35 requires the owner of property receiving a property tax exemption based on exclusive use for religious, charitable, or educational purposes to file an annual affidavit. Section R884-24P-36 sets forth items that must appear on the real property tax notice, in addition to items required in Section 59-2-1317. Section R884-24P-37 requires the county assessor to maintain an appraisal record of all real property subject to assessment by the county; indicates what information shall be included in the record; requires the value of the land and improvements be shown separately. Section R884-24P-38 provides definitions and a methodology for assessing nonoperating railroad properties. Section R884-24P-40 clarifies when parsonages, rectories, monasteries, homes and residences are used exclusively for religious purposes; states that vacant land not actively used by the religious organization is not exempt from property tax. Section R884-24P-42 provides procedures an assessor must follow upon Commission completion of audits of personal property and land subject to the Farmland Assessment Act. Section R884-24P-44 indicates who is the owner for purposes of the property tax exemption for the owner of equipment and machinery used for agricultural purposes; clarifies when machinery and equipment are not used for farming purposes. Section R884-24P-49 defines terms and provides a methodology for valuating a private rail car company apportioned to Utah. Section R884-24P-50 defines terms and provides a methodology for apportioning the Utah portion of commercial aircraft. Section R884-24P-52 defines terms and establishes criteria necessary for the determination of whether a residence is a primary residence in Utah. Section R884-24P-53 provides valuation tables for the valuation of land subject to the Farmland Assessment Act. Section R884-24P-55 requires each county to establish a written ordinance for real property sale procedures and indicates what issues the ordinance must address. Section requires that the ordinance be displayed in a public place and be available to all interested parties. Section R884-24P-56 provides a formula to calculate the previous year's statewide rate; apportions vehicles assessed under Section 41-1a-301 at the same percentage filed with the Customer Service Division of

the Tax Commission; defines "principal route." Section R884-24P-57 defines terms related to a judgment levy; provides guidelines on a judgment levy public hearing and advertisement; requires taxing entities to file with the Tax Commission a statement certifying that they meet the qualifications for imposing a judgment levy. Section R884-24P-58 indicates how the one-time decrease in the certified rate based on the county option sales tax shall be determined. Section R884-24P-59 indicates how the one-time decrease in the certified rate based on resort community sales tax shall be determined. Section R884-24P-60 excludes motorcycles from the definition of "motor vehicle;" provides additional guidelines on the calculation of the age-based uniform fee on tangible personal property. Section R884-24P-61 defines "recreational vehicle" and excludes motorcycles from the definition of "motor vehicle;" clarifies what types of personal property the uniform fee applies to; provides a formula to determine the fair market value of tangible personal property. Section R884-24P-62 defines terms related to state-assessed utility and transportation properties; provides a methodology for valuation of state-assessed utility and transportation properties. Section R884-24P-63 requires a written customer service performance plan to be developed by the party contracting to collect both state registration fees and county property taxes on vehicles; requires county offices and the Tax Commission to provide training. Section R884-24P-64 provides a formula for determining the taxable value of vehicles owned by disabled veterans and the blind for purposes of the property tax exemptions for the disabled veterans and the blind. Section R884-24P-65 defines "transitory personal property" and clarifies when this type of property is subject to a proportional assessment of property tax. Section R884-24P-66 defines "factual error;" indicates when a board of equalization must accept a property tax appeal that is filed beyond the period allowed under the statute of limitations. Section R884-24P-67 provides an annual reporting mechanism to assist county assessors in gathering data necessary for accurate valuation of low-income housing projects. Section R884-24P-68 provides guidance in determining whether a taxpayer qualifies for the property tax exemption for tangible personal property with a total aggregate fair market value of \$3,500 or less. Section R884-24P-70 provides that county mass appraisal systems shall use accepted valuation methodologies to perform the annual update of all residential parcels and defines "accepted valuation methodologies;" indicates what a detailed review of property characteristics includes. Therefore, this rule should be continued.

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

TAX COMMISSION
PROPERTY TAX
210 N 1950 W
SALT LAKE CITY, UT 84134

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

AUTHORIZED BY: Michael Cragun, Tax Commissioner

EFFECTIVE: 01/03/2012

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR EXPIRATIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules (Division). However, if the agency fails to file either the review or the extension by the five-year anniversary date of the rule, the rule expires.

Upon expiration of the rule, the Division is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule, and it must follow regular rulemaking procedures to replace the rule if necessary.

The rules listed below were *not* reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

Attorney General, Administration

R105-1

Attorney General's Selection of Outside
Counsel, Expert Witnesses and Other
Litigation Support Services

FIVE-YEAR REVIEW EXPIRATION

DAR FILE NO.: 35546

FILED: 12/16/2011

SUMMARY: Rule R105-1 has expired. Neither a notice of continuation nor a request for extension had been filed by the anniversary date.

EFFECTIVE: 11/23/2011

End of the Notices of Notices of Five Year Expirations 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

Agriculture and Food

Animal Industry

No. 35154 (AMD): R58-20. Domesticated Elk Hunting Parks

Published: 09/01/2011

Effective: 12/19/2011

Education

Administration

No. 35375 (AMD): R277-480. Charter School Revolving

Account

Published: 11/15/2011

Effective: 12/27/2011

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 35334 (AMD): R414-310. Medicaid Primary Care

Network Demonstration Waiver

Published: 11/01/2011

Effective: 12/23/2011

No. 35335 (AMD): R414-320. Medicaid Health Insurance

Flexibility and Accountability Demonstration Waiver

Published: 11/01/2011

Effective: 12/23/2011

Family Health and Preparedness, Licensing

No. 35322 (AMD): R432-600. Abortion Clinic Rule

Published: 11/01/2011

Effective: 12/23/2011

Human Services

Administration

No. 35178 (R&R): R495-878. Department of Human

Services Civil Rights Complaint Procedure

Published: 09/15/2011

Effective: 12/27/2011

Services for People with Disabilities

No. 35176 (AMD): R539-9. Supported Employment Pilot Program

Published: 09/15/2011

Effective: 12/27/2011

Insurance

Administration

No. 35387 (AMD): R590-160. Administrative Proceedings

Published: 11/15/2011

Effective: 12/29/2011

Labor Commission

Adjudication

No. 35377 (AMD): R602-2-4. Attorney Fees

Published: 11/15/2011

Effective: 12/29/2011

Industrial Accidents

No. 35363 (AMD): R612-4-2. Premium Rates for the

Uninsured Employers' Fund and the Employers' Reinsurance Fund

Published: 11/01/2011

Effective: 01/01/2012

Public Safety

Fire Marshal

No. 35401 (AMD): R710-6. Liquefied Petroleum Gas Rules

Published: 11/15/2011

Effective: 12/24/2011

School and Institutional Trust Lands

Administration

No. 35400 (AMD): R850-8. Adjudicative Proceedings

Published: 11/15/2011

Effective: 12/22/2011

Tax Commission

Auditing

No. 35380 (AMD): R865-4D-24. Special Fuel Tax License

Pursuant to Utah Code Ann. Section 59-13-302

Published: 11/15/2011

Effective: 12/22/2011

NOTICES OF RULE EFFECTIVE DATES

No. 35381 (AMD): 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
Published: 11/15/2011
Effective: 12/22/2011

No. 35382 (AMD): R865-6F-28. Enterprise Zone Corporate Franchise Tax Credits Pursuant to Utah Code Ann. Sections 63M-1-401 through 63M-1-416
Published: 11/15/2011
Effective: 12/22/2011

No. 35384 (AMD): R865-9I-2. Determination of Utah Resident Individual Status Pursuant to Utah Code Ann. Section 59-10-103
Published: 11/15/2011
Effective: 12/22/2011

No. 35385 (AMD): R865-9I-18. Taxpayer Records, Statements, and Special Returns Pursuant to Utah Code Ann. Section 59-10-501
Published: 11/15/2011
Effective: 12/22/2011

No. 35386 (AMD): R865-9I-37. Enterprise Zone Individual Income Tax Credits Pursuant to Utah Code Ann. Sections 63M-1-401 through 63M-1-414
Published: 11/15/2011
Effective: 12/22/2011

No. 35383 (AMD): R865-13G-17. Motor Fuel Tax License Pursuant to Utah Code Ann. Section 59-13-203.1
Published: 11/15/2011
Effective: 12/22/2011

Workforce Services

Employment Development

No. 35402 (AMD): R986-200. Family Employment Program
Published: 11/15/2011
Effective: 12/29/2011

End of the Notices of Rule Effective Dates Section

**2012 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, 2012 through January 03, 2012. 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	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
CAPITOL PRESERVATION BOARD (STATE)					
<u>Administration</u>					
R131-13	Health Reform - Health Insurance Coverage in State Contracts - Implementation	35611	EMR	01/03/2012	Not Printed
TAX COMMISSION					
<u>Administration</u>					
R861-1A	Administrative Procedures	35595	5YR	01/03/2012	Not Printed
<u>Auditing</u>					
R865-3C	Corporation Income Tax	35597	5YR	01/03/2012	Not Printed
R865-4D	Special Fuel Tax	35598	5YR	01/03/2012	Not Printed
R865-6F	Franchise Tax	35599	5YR	01/03/2012	Not Printed
R865-9I	Income Tax	35600	5YR	01/03/2012	Not Printed
R865-11Q	Self-Insured Employer Assessment	35601	5YR	01/03/2012	Not Printed
R865-12L	Local Sales and Use Tax	35602	5YR	01/03/2012	Not Printed
R865-13G	Motor Fuel Tax	35603	5YR	01/03/2012	Not Printed
R865-14W	Mineral Producers' Withholding Tax	35604	5YR	01/03/2012	Not Printed
R865-15O	Oil and Gas Tax	35605	5YR	01/03/2012	Not Printed
R865-19S	Sales and Use Tax	35606	5YR	01/03/2012	Not Printed
R865-20T	Tobacco Tax	35607	5YR	01/03/2012	Not Printed
<u>Motor Vehicle</u>					
R873-22M	Motor Vehicle	35608	5YR	01/03/2012	Not Printed
<u>Motor Vehicle Enforcement</u>					
R877-23V	Motor Vehicle Enforcement	35609	5YR	01/03/2012	Not Printed
<u>Property Tax</u>					
R884-24P	Property Tax	35592	5YR	01/03/2012	Not Printed

RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>aircraft</u> Tax Commission, Motor Vehicle	35608	R873-22M	5YR	01/03/2012	Not Printed
<u>appraisals</u> Tax Commission, Property Tax	35592	R884-24P	5YR	01/03/2012	Not Printed
<u>charities</u> Tax Commission, Auditing	35606	R865-19S	5YR	01/03/2012	Not Printed
<u>collections</u> Tax Commission, Auditing	35602	R865-12L	5YR	01/03/2012	Not Printed
<u>contractors</u> Capitol Preservation Board (State), Administration	35611	R131-13	EMR	01/03/2012	Not Printed
<u>contracts</u> Capitol Preservation Board (State), Administration	35611	R131-13	EMR	01/03/2012	Not Printed
<u>corporation tax</u> Tax Commission, Auditing	35597	R865-3C	5YR	01/03/2012	Not Printed
<u>developmental disabilities</u> Tax Commission, Administration	35595	R861-1A	5YR	01/03/2012	Not Printed
<u>disclosure requirements</u> Tax Commission, Administration	35595	R861-1A	5YR	01/03/2012	Not Printed
<u>enterprise zones</u> Tax Commission, Auditing	35600	R865-9I	5YR	01/03/2012	Not Printed
<u>environment</u> Tax Commission, Auditing	35603	R865-13G	5YR	01/03/2012	Not Printed
<u>franchises</u> Tax Commission, Auditing	35599	R865-6F	5YR	01/03/2012	Not Printed
<u>fuel</u> Tax Commission, Auditing	35598	R865-4D	5YR	01/03/2012	Not Printed
<u>gasoline</u> Tax Commission, Auditing	35603	R865-13G	5YR	01/03/2012	Not Printed
<u>grievance procedures</u> Tax Commission, Administration	35595	R861-1A	5YR	01/03/2012	Not Printed
<u>health insurance</u> Capitol Preservation Board (State), Administration	35611	R131-13	EMR	01/03/2012	Not Printed
<u>historic preservation</u> Tax Commission, Auditing	35599 35600	R865-6F R865-9I	5YR 5YR	01/03/2012 01/03/2012	Not Printed Not Printed
<u>income tax</u> Tax Commission, Auditing	35600	R865-9I	5YR	01/03/2012	Not Printed
<u>license plates</u> Tax Commission, Motor Vehicle	35608	R873-22M	5YR	01/03/2012	Not Printed
<u>mineral resources</u> Tax Commission, Auditing	35604	R865-14W	5YR	01/03/2012	Not Printed
<u>motor fuel</u> Tax Commission, Auditing	35603	R865-13G	5YR	01/03/2012	Not Printed

RULES INDEX

motor vehicles

Tax Commission, Motor Vehicle	35608	R873-22M	5YR	01/03/2012	Not Printed
Tax Commission, Motor Vehicle Enforcement	35609	R877-23V	5YR	01/03/2012	Not Printed

personal property

Tax Commission, Property Tax	35592	R884-24P	5YR	01/03/2012	Not Printed
------------------------------	-------	----------	-----	------------	-------------

petroleum

Tax Commission, Auditing	35605	R865-15O	5YR	01/03/2012	Not Printed
--------------------------	-------	----------	-----	------------	-------------

petroleum industries

Tax Commission, Auditing	35605	R865-15O	5YR	01/03/2012	Not Printed
--------------------------	-------	----------	-----	------------	-------------

property tax

Tax Commission, Property Tax	35592	R884-24P	5YR	01/03/2012	Not Printed
------------------------------	-------	----------	-----	------------	-------------

religious activities

Tax Commission, Auditing	35606	R865-19S	5YR	01/03/2012	Not Printed
--------------------------	-------	----------	-----	------------	-------------

restaurants

Tax Commission, Auditing	35602	R865-12L	5YR	01/03/2012	Not Printed
--------------------------	-------	----------	-----	------------	-------------

sales tax

Tax Commission, Auditing	35602	R865-12L	5YR	01/03/2012	Not Printed
	35606	R865-19S	5YR	01/03/2012	Not Printed

self-insured employer

Tax Commission, Auditing	35601	R865-11Q	5YR	01/03/2012	Not Printed
--------------------------	-------	----------	-----	------------	-------------

special fuel

Tax Commission, Auditing	35598	R865-4D	5YR	01/03/2012	Not Printed
--------------------------	-------	---------	-----	------------	-------------

tax exemptions

Tax Commission, Auditing	35606	R865-19S	5YR	01/03/2012	Not Printed
--------------------------	-------	----------	-----	------------	-------------

tax returns

Tax Commission, Auditing	35600	R865-9I	5YR	01/03/2012	Not Printed
--------------------------	-------	---------	-----	------------	-------------

taxation

Tax Commission, Administration	35595	R861-1A	5YR	01/03/2012	Not Printed
Tax Commission, Auditing	35597	R865-3C	5YR	01/03/2012	Not Printed
	35598	R865-4D	5YR	01/03/2012	Not Printed
	35599	R865-6F	5YR	01/03/2012	Not Printed
	35601	R865-11Q	5YR	01/03/2012	Not Printed
	35602	R865-12L	5YR	01/03/2012	Not Printed
	35603	R865-13G	5YR	01/03/2012	Not Printed
	35604	R865-14W	5YR	01/03/2012	Not Printed
	35605	R865-15O	5YR	01/03/2012	Not Printed
	35607	R865-20T	5YR	01/03/2012	Not Printed
Tax Commission, Motor Vehicle	35608	R873-22M	5YR	01/03/2012	Not Printed
Tax Commission, Motor Vehicle Enforcement	35609	R877-23V	5YR	01/03/2012	Not Printed
Tax Commission, Property Tax	35592	R884-24P	5YR	01/03/2012	Not Printed

tobacco products

Tax Commission, Auditing	35607	R865-20T	5YR	01/03/2012	Not Printed
--------------------------	-------	----------	-----	------------	-------------

trucking industries

Tax Commission, Auditing	35599	R865-6F	5YR	01/03/2012	Not Printed
--------------------------	-------	---------	-----	------------	-------------

withholding tax

Tax Commission, Auditing	35604	R865-14W	5YR	01/03/2012	Not Printed
--------------------------	-------	----------	-----	------------	-------------

2011 COMPLETE RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

This Rules Index is a complete index that reflects all effective changes to Utah's administrative rules for 2011. The Index lists changes made effective from January 2, 2011 through January 1, 2012. 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).

DAR NOTE: Due to space constraints, the 2011 Keyword Index is not included in this issue of the Utah State Bulletin.

Questions regarding the index and the information it contains should be addressed to Nancy Lancaster (801-538-3218), Mike Broschinsky (801-538-3003), or Kenneth A. Hansen (801-538-3777).

A copy of the Rules Index is available for public inspection at the Division of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive Change
CPR = Change in Proposed Rule	REP = Repeal
EMR = Emergency Rule (120 day)	R&R = Repeal and Reenact
NEW = New Rule	5YR = Five-Year Review
EXD = Expired	EXT = Five-Year Review Extension
EXP = Expedited Rule	LNR = Legislative Nonreauthorization
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
----------------	-------	-------------	--------	----------------	---------------------

ADMINISTRATIVE SERVICES

Administration

R13-2	Access to Records	35309	5YR	10/04/2011	2011-21/155
R13-3	Americans with Disabilities Act Grievance Procedures	34347	AMD	03/10/2011	2011-3/4
R13-3-2	Definitions	34674	NSC	04/27/2011	Not Printed

Facilities Construction and Management

R23-23	Health Reform - Health Insurance Coverage in State Contracts - Implementation	34801	EMR	05/10/2011	2011-11/105
R23-23	Health Reform - Health Insurance Coverage in State Contracts - Implementation	34803	AMD	07/11/2011	2011-11/6
R23-25	Administrative Rules Adjudicative Proceedings	35157	5YR	08/15/2011	2011-17/89
R23-31	Executive Residence Commission	34802	NEW	07/11/2011	2011-11/8
R23-32	Rules of Procedure for Conduct of Utah State Building Board Meetings	35333	NEW	12/09/2011	2011-21/6

Finance

R25-2	Finance Adjudicative Proceedings	35276	5YR	09/21/2011	2011-20/65
R25-7	Travel-Related Reimbursements for State Employees	34764	AMD	07/01/2011	2011-10/6

Fleet Operations

R27-3	Vehicle Use Standards	34256	AMD	01/25/2011	2010-24/6
R27-3-4	Authorized and Unauthorized Use of State Vehicles	34786	AMD	07/12/2011	2011-11/10
R27-4-11	Capital Credit or Reservation of Vehicle Allocation for Surrendered Vehicles	34257	AMD	01/25/2011	2010-24/7
R27-10	Identification Mark for State Motor Vehicles	35545	5YR	12/16/2011	Not Printed

Fleet Operations, Surplus Property

R28-1	State Surplus Property Disposal	34780	REP	09/13/2011	2011-11/12
R28-2	Surplus Firearms	34781	REP	09/13/2011	2011-11/15
R28-3	Utah State Agency for Surplus Property Adjudicative Proceedings	34782	REP	09/13/2011	2011-11/16
R28-7	Surplus Property Rate Schedule	34783	REP	09/13/2011	2011-11/18

Purchasing and General Services

R33-11	State Surplus Property Disposal	34884	NEW	09/13/2011	2011-12/8
--------	---------------------------------	-------	-----	------------	-----------

AGRICULTURE AND FOOD

Administration

R51-3	Government Records Access and Management Act	34491	5YR	03/03/2011	2011-7/43
R51-4	ADA Complaint Procedure	34492	5YR	03/03/2011	2011-7/43

Animal Industry

R58-1	Admission and Inspection of Livestock, Poultry and Other Animals	34343	AMD	03/24/2011	2011-3/7
R58-2	Diseases, Inspections and Quarantines	34352	AMD	03/24/2011	2011-3/13
R58-2	Diseases, Inspections and Quarantines	34975	5YR	06/23/2011	2011-14/135
R58-4	Use of Animal Drugs and Biologicals in the State of Utah	34976	5YR	06/23/2011	2011-14/135
R58-11	Slaughter of Livestock	34694	AMD	06/21/2011	2011-9/2
R58-11-2	Definitions	34914	NSC	06/30/2011	Not Printed
R58-14	Holding Live Raccoons or Coyotes in Captivity	34974	5YR	06/23/2011	2011-14/136
R58-20	Domesticated Elk Hunting Park	34906	EMR	06/07/2011	2011-13/79
R58-20	Domesticated Elk Hunting Parks	35154	AMD	12/19/2011	2011-17/10
R58-24	Community Spay and Neuter Grants	34957	NEW	08/26/2011	2011-14/4

Horse Racing Commission (Utah)

R52-7	Horse Racing	35192	EXT	08/29/2011	2011-18/91
R52-7	Horse Racing	35193	5YR	08/30/2011	2011-18/85

Marketing and Development

R65-8	Management of the Junior Livestock Show Appropriation	34489	5YR	03/03/2011	2011-7/44
-------	---	-------	-----	------------	-----------

Plant Industry

R68-4	Standardization, Marketing, and Phytosanitary Inspection of Fresh Fruits, Vegetables, and Other Plant and Plant Products	34414	5YR	02/08/2011	2011-5/107
R68-7	Utah Pesticide Control Act	34488	5YR	03/02/2011	2011-7/44
R68-7	Utah Pesticide Control Act	34430	AMD	06/02/2011	2011-5/2
R68-7	Utah Pesticide Control Rule	34711	AMD	06/21/2011	2011-10/10
R68-7-10	Responsibilities of Business and Applicator	34456	NSC	06/02/2011	Not Printed
R68-7-10	Responsibilities of Business and Applicator	34498	AMD	06/02/2011	2011-7/2
R68-8	Utah Seed Law	34345	5YR	01/05/2011	2011-3/55
R68-18	Quarantine Pertaining to Karnal Bunt	34412	5YR	02/08/2011	2011-5/107
R68-21-2	Authority	34558	NSC	04/27/2011	Not Printed

Regulatory Services

R70-330	Raw Milk for Retail	34518	5YR	03/16/2011	2011-8/29
R70-370	Butter	34519	5YR	03/16/2011	2011-8/29
R70-380	Grade A Condensed and Dry Milk Products and Condensed and Dry Whey	34517	5YR	03/16/2011	2011-8/30
R70-410	Grading and Inspection of Shell Eggs with Standard Grade and Weight Classes	34378	5YR	01/24/2011	2011-4/35
R70-920	Packaging and Labeling of Commodities	35177	5YR	08/22/2011	2011-18/85
R70-930	Method of Sale of Commodities	35127	5YR	08/11/2011	2011-17/89
R70-940	Standards and Testing of Motor Fuel	35128	5YR	08/11/2011	2011-17/90

ALCOHOLIC BEVERAGE CONTROL

Administration

R81-1	Scope, Definitions, and General Provisions	34787	5YR	05/10/2011	2011-11/123
R81-1	Scope, Definitions, and General Provisions	35070	NSC	08/04/2011	Not Printed
R81-1	Scope, Definitions, and General Provisions	35098	AMD	10/01/2011	2011-16/4
R81-1-11	Multiple-Licensed Facility Storage and Service	35052	AMD	10/01/2011	2011-15/8
R81-1-14	Americans With Disabilities Act Complaint Procedure	35053	AMD	10/01/2011	2011-15/9
R81-1-29	Disclosure of Conflicts of Interest	34337	AMD	02/24/2011	2011-2/4
R81-1-29	Disclosure of Conflict of Interest	35054	AMD	10/01/2011	2011-15/13
R81-1-30	Factors for Granting Licenses	34336	AMD	02/24/2011	2011-2/5
R81-1-30	Factors for Granting Licenses	35055	AMD	10/01/2011	2011-15/14
R81-1-30	Draft Beer Sales/Minors on Premises	35056	AMD	10/01/2011	2011-15/16
R81-2	State Stores	34788	5YR	05/10/2011	2011-11/124
R81-2	State Stores	35057	AMD	10/01/2011	2011-15/17
R81-2-11	Industry Members in State Stores	35188	NSC	10/01/2011	Not Printed
R81-3	Package Agencies	34789	5YR	05/10/2011	2011-11/125
R81-3	Package Agencies	35058	AMD	10/01/2011	2011-15/19
R81-3	Package Agencies	35189	NSC	10/01/2011	Not Printed

RULES INDEX

R81-3-13	Operational Restrictions	34340	AMD	02/24/2011	2011-2/6
R81-3-13	Operational Restrictions	35299	AMD	12/01/2011	2011-20/7
R81-3-20	Type 4 Package Agency Room Service - Dispensing	35300	AMD	12/01/2011	2011-20/8
R81-4A	Restaurant Liquor Licenses	34790	5YR	05/10/2011	2011-11/125
R81-4A	Restaurant Liquor Licenses	35059	AMD	10/01/2011	2011-15/25
R81-4A-7	Sale and Purchase of Alcoholic Beverages	35197	NSC	10/01/2011	Not Printed
R81-4B	Airport Lounges	35071	NSC	08/04/2011	Not Printed
R81-4C	Limited Restaurant Licenses	35060	AMD	10/01/2011	2011-15/27
R81-4D	On-Premise Banquet License	35061	AMD	10/01/2011	2011-15/30
R81-4D-7	Sale and Purchase of Alcoholic Beverages	35301	AMD	12/01/2011	2011-20/9
R81-4E	Resort Licenses	35073	NSC	08/04/2011	Not Printed
R81-4F	Reception Center License	35062	NEW	10/01/2011	2011-15/33
R81-5	Private Clubs	34791	5YR	05/10/2011	2011-11/126
R81-5	Private Clubs	35063	AMD	10/01/2011	2011-15/35
R81-6	Special Use Permits	34792	5YR	05/10/2011	2011-11/127
R81-6	Special Use Permits	35074	NSC	08/04/2011	Not Printed
R81-6-6	Religious Wine Permits	35099	AMD	10/01/2011	2011-16/6
R81-7	Single Event Permits	34793	5YR	05/10/2011	2011-11/128
R81-7	Single Event Permits	35075	NSC	08/04/2011	Not Printed
R81-8	Manufacturers (Distillery, Winery, Brewery)	34794	5YR	05/10/2011	2011-11/128
R81-8	Manufacturers (Distillery, Winery, Brewery)	35076	NSC	08/04/2011	Not Printed
R81-9	Liquor Warehousing License	34795	5YR	05/10/2011	2011-11/129
R81-9	Liquor Warehousing License	35077	NSC	08/04/2011	Not Printed
R81-10	Off-Premise Beer Retailers	35078	NSC	08/04/2011	Not Printed
R81-10A	On-Premise Beer Retailer Licenses	35064	AMD	10/01/2011	2011-15/39
R81-10B	Temporary Special Event Beer Permits	35079	NSC	08/04/2011	Not Printed
R81-10C	Beer Only Restaurant Licenses	35065	NEW	10/01/2011	2011-15/41
R81-10C	Beer Only Restaurant Licenses	35302	AMD	12/01/2011	2011-20/10
R81-10D	Tavern Beer Licenses	35097	NEW	10/01/2011	2011-16/7
R81-10D-6	Age Verification - Taverns	35198	NSC	10/01/2011	Not Printed
R81-11	Beer Wholesalers	34796	5YR	05/10/2011	2011-11/129
R81-11	Beer Wholesalers	35080	NSC	08/04/2011	Not Printed
R81-12	Manufacturer Representative (Distillery, Winery, Brewery)	34797	5YR	05/10/2011	2011-11/130
R81-12	Local Industry Representative Licenses (Distillery, Winery, Brewery)	35066	AMD	10/01/2011	2011-15/42

ATTORNEY GENERAL

Administration

R105-1	Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services	35546	EXD	12/16/2011	Not Printed
R105-2	Records Access and Management	35195	AMD	10/25/2011	2011-18/8
R105-2	Records Access and Management	35414	5YR	11/07/2011	2011-23/103

CAPITOL PRESERVATION BOARD (STATE)

Administration

R131-4	Capitol Preservation Board General Procurement Rule	34675	5YR	04/11/2011	2011-9/117
R131-10	Commercial Solicitations	35318	EXT	10/06/2011	2011-21/167
R131-11	Preservation of Free Speech Activities	35319	EXT	10/06/2011	2011-21/167

CAREER SERVICE REVIEW OFFICE

Administration

R137-1	Grievance Procedure Rules	35083	5YR	07/18/2011	2011-16/49
R137-1-2	Definitions	35089	AMD	12/09/2011	2011-16/9

COMMERCE

Administration

R151-2	Government Records Access and Management Act Rule	35411	5YR	11/03/2011	2011-23/104
R151-2-5	Designation of Authorized Officers	35364	NSC	10/31/2011	Not Printed

R151-3	Americans With Disabilities Act Rule	34752	AMD	06/21/2011	2011-10/20
R151-4	Department of Commerce Administrative Procedures Act Rule	34479	NEW	04/21/2011	2011-6/4
R151-4-107	Computation of Time	35232	AMD	11/07/2011	2011-19/4
R151-4-708	Standard of Proof	35018	AMD	09/07/2011	2011-15/44
R151-14	New Automobile Franchise Act Rule	34761	5YR	05/02/2011	2011-10/117
R151-14-3	Adjudicative Proceedings	34735	NSC	05/25/2011	Not Printed
R151-35-3	Adjudicative Proceedings	34736	NSC	05/25/2011	Not Printed
R151-46b	Department of Commerce Administrative Procedures Act Rules	34480	REP	04/21/2011	2011-6/18
<u>Consumer Protection</u>					
R152-1a	Internet Content Provider Ratings Methods	35119	5YR	08/09/2011	2011-17/91
R152-11	Utah Consumer Sales Practices Act	35121	5YR	08/09/2011	2011-17/91
R152-11-9	Direct Solicitations	34100	AMD	02/07/2011	2010-20/4
R152-26	Telephone Fraud Prevention Act	35120	5YR	08/09/2011	2011-17/91
<u>Corporations and Commercial Code</u>					
R154-2	Utah Uniform Commercial Code, Revised Article 9 Rules	34785	5YR	05/10/2011	2011-11/131
<u>Occupational and Professional Licensing</u>					
R156-1	General Rule of the Division of Occupational and Professional Licensing	34885	AMD	07/26/2011	2011-12/12
R156-1	General Rule of the Division of Occupational and Professional Licensing	35096	NSC	08/16/2011	Not Printed
R156-1-102	Definitions	34323	AMD	02/24/2011	2011-2/7
R156-3a	Architect Licensing Act Rule	34396	5YR	01/31/2011	2011-4/35
R156-3a	Architect Licensing Act Rule	35034	AMD	09/08/2011	2011-15/45
R156-9	Funeral Service Licensing Act Rule	35293	5YR	09/26/2011	2011-20/65
R156-9a	Uniform Athlete Agents Act Rules	34499	5YR	03/10/2011	2011-7/45
R156-9a	Uniform Athlete Agents Act Rules	34496	NSC	04/06/2011	Not Printed
R156-11a	Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule	34982	AMD	08/23/2011	2011-14/5
R156-15	Health Facility Administrator Act Rule	34545	AMD	05/26/2011	2011-8/10
R156-15	Health Facility Administrator Act Rule	35117	NSC	08/31/2011	Not Printed
R156-15	Health Facility Administrator Act Rule	35360	5YR	10/13/2011	2011-21/155
R156-15A	State Construction Code Administration and Adoption of Approved State Construction Code Rule	35017	NEW	09/12/2011	2011-15/48
R156-15A-103	Authority	35231	NSC	09/30/2011	Not Printed
R156-17b-102	Definitions	35274	AMD	11/21/2011	2011-20/12
R156-17b-310	Exemption from Licensure - Physicians Dispensing Cosmetic Drug or Injectable Weight Loss Drug	34887	AMD	07/26/2011	2011-12/22
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rule	34409	AMD	03/24/2011	2011-4/6
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rule	35035	AMD	09/08/2011	2011-15/53
R156-24b	Physical Therapy Practice Act Rule	35443	5YR	11/15/2011	2011-23/104
R156-26a	Certified Public Accountant Licensing Act Rule	35444	5YR	11/15/2011	2011-23/105
R156-28	Veterinary Practice Act Rule	35485	5YR	11/29/2011	2011-24/87
R156-38b	State Construction Registry Rule	35102	AMD	09/26/2011	2011-16/11
R156-38b-502	Merging Notices of Commencement	35290	NSC	10/11/2011	Not Printed
R156-39a	Alternative Dispute Resolution Providers Certification Act	34888	REP	07/26/2011	2011-12/25
R156-40	Recreational Therapy Practice Act Rule	35160	5YR	08/15/2011	2011-17/92
R156-40a	Athletic Trainer Licensing Act Rule	35473	5YR	11/21/2011	2011-24/87
R156-41	Speech-Language Pathology and Audiology Licensing Act Rule	35484	5YR	11/29/2011	2011-24/88
R156-46b	Division Utah Administrative Procedures Act Rule	34397	5YR	01/31/2011	2011-4/36
R156-46b	Division Utah Administrative Procedures Act Rule	34469	AMD	04/25/2011	2011-6/33
R156-46b	Division Utah Administrative Procedures Act Rule	34712	NSC	05/25/2011	Not Printed

RULES INDEX

R156-46b	Division Utah Administrative Procedures Act Rule	34886	AMD	07/26/2011	2011-12/27
R156-46b-403	Evidentiary Hearings in Informal Adjudicative Proceedings	35095	NSC	08/16/2011	Not Printed
R156-47b	Massage Therapy Practice Act Rule	34983	AMD	08/23/2011	2011-14/9
R156-50	Private Probation Provider Licensing Act Rules	34282	NSC	01/06/2011	Not Printed
R156-53	Landscape Architects Licensing Act Rules	35112	AMD	10/13/2011	2011-17/12
R156-54	Radiology Technologist and Radiology Practical Technician Licensing Act Rule	35158	AMD	10/13/2011	2011-17/16
R156-54	Radiologic Technologist, Radiologist Assistant, and Radiology Practical Technician Licensing Act Rule	35442	5YR	11/15/2011	2011-23/105
R156-55a	Utah Construction Trades Licensing Act Rule	34470	AMD	04/25/2011	2011-6/35
R156-55a	Utah Construction Trades Licensing Act Rule	35013	AMD	09/12/2011	2011-15/57
R156-55a	Utah Construction Trades Licensing Act Rule	35308	5YR	10/04/2011	2011-21/156
R156-55b	Electricians Licensing Rule	35014	AMD	09/12/2011	2011-15/60
R156-55b	Electricians Licensing Rule	35306	5YR	10/04/2011	2011-21/157
R156-55c	Plumber Licensing Rule	35015	AMD	09/12/2011	2011-15/64
R156-55c	Plumbers Licensing Rule	35307	5YR	10/04/2011	2011-21/158
R156-55c-102	Definitions	34338	AMD	02/24/2011	2011-2/10
R156-55c-302c	Qualifications for Licensure - Examination Requirements	35230	NSC	09/30/2011	Not Printed
R156-55e-303a	Continuing Education - Standards	34673	NSC	04/27/2011	Not Printed
R156-56	Utah Uniform Building Standard Act Rule	35016	AMD	09/12/2011	2011-15/68
R156-57	Respiratory Care Practices Act Rule	35292	5YR	09/26/2011	2011-20/66
R156-60a	Social Worker Licensing Act Rule	34310	AMD	02/10/2011	2011-1/6
R156-60b	Marriage and Family Therapist Licensing Act Rule	34952	AMD	08/22/2011	2011-14/13
R156-60c	Professional Counselor Licensing Act Rule	34339	AMD	02/24/2011	2011-2/12
R156-60d	Substance Abuse Counselor Act Rule	34395	5YR	01/31/2011	2011-4/37
R156-63a	Security Personnel Licensing Act Contract Security Rule	34370	AMD	03/24/2011	2011-4/12
R156-63a-302f	Qualifications for Licensure - Good Moral Character - Disqualifying Convictions	34360	NSC	01/26/2011	Not Printed
R156-63b	Security Personnel Licensing Act Armored Car Rule	34542	AMD	05/26/2011	2011-8/11
R156-67	Utah Medical Practice Act Rule	34504	5YR	03/14/2011	2011-7/46
R156-69	Dentist and Dental Hygienist Practice Act Rule	34283	AMD	02/07/2011	2011-1/8
R156-69	Dentist and Dental Hygienist Practice Act Rule	34500	5YR	03/10/2011	2011-7/46
R156-70a	Physician Assistant Practice Act Rule	35552	5YR	12/19/2011	Not Printed
R156-71	Naturopathic Physician Practice Act Rule	35370	5YR	10/20/2011	2011-22/61
R156-72	Acupuncture Licensing Act Rules	34543	AMD	05/26/2011	2011-8/14
R156-72	Acupuncture Licensing Act Rule	35371	5YR	10/20/2011	2011-22/62
R156-73	Chiropractic Physician Practice Act Rule	34503	5YR	03/14/2011	2011-7/47
R156-75	Genetic Counselors Licensing Act Rule	35372	5YR	10/20/2011	2011-22/63
R156-77	Direct-Entry Midwife Act Rule	35159	5YR	08/15/2011	2011-17/93
R156-78	Vocational Rehabilitation Counselor Licensing Act Rule	34912	AMD	08/08/2011	2011-13/4
R156-78B	Prelitigation Panel Review Rule	34215	AMD	01/10/2011	2010-23/4
R156-78B-4	General Provisions	35237	AMD	11/08/2011	2011-19/6
R156-83-306	Drugs Approved for Online Prescribing, Dispensing, and Facilitation	34237	AMD	01/10/2011	2010-23/14
R156-83-306	Drugs Approved for Online Prescribing, Dispensing, and Facilitation	34544	AMD	05/26/2011	2011-8/15
R156-83-306	Drugs Approved for Online Prescribing, Dispensing, and Facilitation	34913	NSC	06/30/2011	Not Printed
<u>Real Estate</u>					
R162-2a	Utah Housing Opportunity Restricted Account	34223	NEW	01/08/2011	2010-23/15
R162-2c	Utah Residential Mortgage Practices and Licensing Rules	34431	AMD	05/10/2011	2011-5/13
R162-2c	Utah Residential Mortgage Practices and Licensing Rules	34907	AMD	08/08/2011	2011-13/6
R162-2c-102	Definitions	35137	AMD	10/11/2011	2011-17/19
R162-2c-201	Licensing and Registration Procedures	34225	AMD	01/08/2011	2010-23/16
R162-2c-202	Qualifications for Licensure	34986	AMD	08/22/2011	2011-14/16
R162-2c-203	Utah-Specific Education Certification	34226	AMD	01/08/2011	2010-23/19

R162-2c-204	License Renewal	34227	AMD	01/08/2011	2010-23/23
R162-2c-204	License Renewal	35134	AMD	10/11/2011	2011-17/21
R162-2c-401	Administrative Proceedings	34737	NSC	05/25/2011	Not Printed
R162-2c-401	Administrative Proceedings	34987	AMD	08/22/2011	2011-14/18
R162-2e	Appraisal Management Company Administrative Rules	34704	AMD	06/22/2011	2011-9/5
R162-2f	Real Estate Licensing and Practices Rules	35174	NSC	09/15/2011	Not Printed
R162-2f-102	Definitions	34908	AMD	08/10/2011	2011-13/8
R162-2f-202b	Principal Broker Licensing Fees and Procedures	35278	AMD	11/21/2011	2011-20/15
R162-2f-205	Registration of Entity	34909	AMD	08/10/2011	2011-13/10
R162-2f-401a	Affirmative Duties Required of all Licensed Individuals	34910	AMD	08/10/2011	2011-13/12
R162-2f-403	Trust Accounts	34911	AMD	08/10/2011	2011-13/14
R162-2f-407	Administrative Proceedings	34738	NSC	08/17/2011	Not Printed
R162-2f-407	Administrative Proceedings	34988	AMD	08/22/2011	2011-14/20
R162-2g	Real Estate Appraiser Licensing and Certification Administrative Rules	34917	NEW	11/01/2011	2011-13/16
R162-2g	Real Estate Appraiser Licensing and Certification Administrative Rules	34917	CPR	11/01/2011	2011-19/54
R162-2g-304d	Experience Hours	35090	AMD	11/01/2011	2011-16/17
R162-12	Utah Housing Opportunity Restricted Account	34224	REP	01/08/2011	2010-23/25
R162-101	Authority and Definitions	34941	REP	11/01/2011	2011-14/22
R162-102	Application Procedures	34942	REP	11/01/2011	2011-14/23
R162-103	Appraisal Education Requirements	34476	AMD	04/27/2011	2011-6/46
R162-103	Appraisal Education Requirements	34943	REP	11/01/2011	2011-14/26
R162-104	Experience Requirement	34944	REP	11/01/2011	2011-14/32
R162-104-14	Special Circumstances	34703	AMD	06/22/2011	2011-9/7
R162-105	Scope of Authority	34945	REP	11/01/2011	2011-14/37
R162-106	Professional Conduct	34946	REP	11/01/2011	2011-14/39
R162-107	Unprofessional Conduct	34947	REP	11/01/2011	2011-14/41
R162-109	Administrative Proceedings	34948	REP	11/01/2011	2011-14/42
R162-110	Trainee Registration	34949	REP	11/01/2011	2011-14/44

COMMUNITY AND CULTURE

Administration

R182-1	Government Records Access And Management Act Rules	35365	5YR	10/14/2011	2011-21/158
--------	---	-------	-----	------------	-------------

History

R212-3	Memberships, Sales, Gifts, Bequests, Endowments	34918	5YR	06/14/2011	2011-13/83
R212-4	Ancient Human Remains	35051	5YR	07/13/2011	2011-15/129
R212-6	State Register for Historic Resources and Archaeological Sites	34717	5YR	04/26/2011	2011-10/117
R212-6	State Register for Historic Resources and Archaeological Sites	34534	AMD	08/11/2011	2011-8/16
R212-8	Preservation Easements	34919	5YR	06/14/2011	2011-13/83
R212-9	Board of State History as the Cultural Sites Review Committee Review Board	34716	5YR	04/26/2011	2011-10/118

Home Energy Assistance Target (HEAT)

R195-1	Energy Assistance: General Provisions	35226	5YR	09/09/2011	2011-19/65
R195-2	Energy Assistance Programs Standards	35005	AMD	10/01/2011	2011-14/47
R195-8	Energy Assistance: Special State Programs	35004	AMD	10/01/2011	2011-14/49

Housing and Community Development

R199-8	Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance	34135	AMD	01/13/2011	2010-21/5
R199-12	State Small Business Credit Initiative Program Fund	35572	EMR	12/27/2011	Not Printed

Olene Walker Housing Trust Fund

R235-1	Olene Walker Housing Loan Fund (OWHLF)	34463	5YR	02/24/2011	2011-6/101
R235-1	Olene Walker Housing Loan Fund (OWHLF)	34455	AMD	04/27/2011	2011-6/51

RULES INDEX

CORRECTIONS

Administration

R251-102	Release of Communicable Disease Information	34856	AMD	10/12/2011	2011-12/30
R251-103	Undercover Roles of Offenders	34838	NSC	06/14/2011	Not Printed
R251-104	Declaratory Orders	34527	5YR	03/24/2011	2011-8/31
R251-104	Declaratory Orders	34839	NSC	06/14/2011	Not Printed
R251-106	Media Relations	35267	EXT	09/19/2011	2011-20/77
R251-106	Media Relations	34857	AMD	10/12/2011	2011-12/31
R251-107	Executions	35268	EXT	09/19/2011	2011-20/77
R251-107	Executions	34904	AMD	10/12/2011	2011-13/34
R251-108	Adjudicative Proceedings	34840	NSC	06/14/2011	Not Printed
R251-108	Administrative Proceedings	35269	EXT	09/19/2011	2011-20/77
R251-109	Sex Offender Treatment Providers	34861	NSC	06/14/2011	Not Printed
R251-110	Sex Offender Registration Program	34841	NSC	06/14/2011	Not Printed
R251-111	Government Records Access and Management	34862	NSC	06/14/2011	Not Printed
R251-112	Americans With Disabilities Act Implementation and Complaint Process	34853	REP	08/03/2011	2011-12/33
R251-113	Distribution of Reimbursement for the Felony Probation Inmate Costs Reimbursement Program/Fund	34854	REP	08/03/2011	2011-12/35
R251-114	Offender Long-Term Health Care - Notice	34858	NSC	06/14/2011	Not Printed
R251-301	Employment, Educational or Vocational Training for Community Correctional Center Offenders	34859	NSC	06/14/2011	Not Printed
R251-303	Offenders' Use of Telephones	34842	NSC	06/14/2011	Not Printed
R251-304	Contract Procedures	34855	REP	08/03/2011	2011-12/38
R251-305	Visiting at Community Correctional Centers	34843	NSC	06/14/2011	Not Printed
R251-306	Sponsors in Community Correctional Centers	34860	AMD	10/12/2011	2011-12/39
R251-401	Supervision Fees	34844	NSC	06/14/2011	Not Printed
R251-702	Inmate Communication: Telephones	34771	5YR	05/03/2011	2011-11/131
R251-702	Inmate Communication: Telephones	34845	NSC	06/14/2011	Not Printed
R251-703	Vehicle Direction Station	34846	NSC	06/14/2011	Not Printed
R251-703	Vehicle Direction Station	35270	EXT	09/19/2011	2011-20/77
R251-704	North Gate	34847	NSC	06/14/2011	Not Printed
R251-704	North Gate	35271	EXT	09/19/2011	2011-20/78
R251-705	Inmate Mail Procedures	35272	EXT	09/19/2011	2011-20/78
R251-705	Inmate Mail Procedures	34962	AMD	10/12/2011	2011-14/50
R251-706	Inmate Visiting	34848	NSC	06/14/2011	Not Printed
R251-706	Inmate Visiting	35273	EXT	09/19/2011	2011-20/78
R251-707	Legal Access	34863	AMD	10/12/2011	2011-12/40
R251-708	Perimeter Patrol	34772	5YR	05/03/2011	2011-11/132
R251-708	Perimeter Patrol	34849	NSC	06/14/2011	Not Printed
R251-709	Transportation of Inmates	34850	NSC	06/14/2011	Not Printed
R251-710	Search	34903	AMD	10/12/2011	2011-13/40
R251-711	Admission and Intake	34773	5YR	05/03/2011	2011-11/132
R251-711	Admission and Intake	34851	NSC	06/14/2011	Not Printed
R251-712	Release	34528	5YR	03/24/2011	2011-8/31
R251-712	Release	34852	NSC	06/14/2011	Not Printed

CRIME VICTIM REPARATIONS

Administration

R270-1	Award and Reparation Standards	34990	5YR	06/29/2011	2011-14/137
R270-2	Crime Victim Reparations Adjudicative Proceedings	34991	5YR	06/29/2011	2011-14/137

EDUCATION

Administration

R277-106	Utah Professional Practices Advisory Commission Appointment Process	35341	AMD	12/08/2011	2011-21/8
R277-109	Legislative Reporting and Accountability	35162	NEW	10/11/2011	2011-17/23
R277-112	Prohibiting Discrimination in the Public Schools	35163	AMD	10/11/2011	2011-17/25
R277-112-3	Standards	35337	NSC	10/31/2011	Not Printed

R277-115	Copyrighting Material Developed with Funds that Flow Through the Board	35241	R&R	11/08/2011	2011-19/7
R277-400	School Emergency Response Plans	34331	AMD	02/22/2011	2011-2/17
R277-401	Child Abuse-Neglect Reporting by Education Personnel	35342	AMD	12/08/2011	2011-21/10
R277-403	Student Reading Proficiency and Notice to Parents	35164	AMD	10/11/2011	2011-17/26
R277-403	Student Reading Proficiency and Notice to Parents	35338	NSC	10/31/2011	Not Printed
R277-403-1	Definitions	34332	AMD	02/22/2011	2011-2/20
R277-404	Requirements for Assessments of Student Achievement	34812	NEW	07/11/2011	2011-11/19
R277-404-3	Board Responsibilities	35101	AMD	09/23/2011	2011-16/21
R277-405	Requirements for Assessment Pilot Programs	34922	NEW	08/08/2011	2011-13/42
R277-405-2	Authority and Purpose	35369	NSC	11/08/2011	Not Printed
R277-406	K-3 Reading Improvement Program and the State Reading Goal	35165	NEW	10/11/2011	2011-17/28
R277-406-4	Responsibilities of Schools and LEAs	35339	NSC	10/31/2011	Not Printed
R277-407	School Fees	34814	AMD	07/11/2011	2011-11/21
R277-407-6	Waivers	35087	NSC	08/16/2011	Not Printed
R277-419	Pupil Accounting	34230	AMD	01/10/2011	2010-23/26
R277-419	Pupil Accounting	35242	AMD	11/08/2011	2011-19/9
R277-419	Pupil Accounting	35343	AMD	12/08/2011	2011-21/11
R277-422	State Supported Voted Leeway, Local Board-Approved Leeway and Local Board Leeway for Reading Improvement Programs	35344	AMD	12/08/2011	2011-21/16
R277-424	Indirect Costs for State Programs	35345	AMD	12/08/2011	2011-21/19
R277-436	Gang Prevention and Intervention Programs in the Schools	34923	AMD	08/08/2011	2011-13/44
R277-436-6	Waivers	35114	NSC	08/31/2011	Not Printed
R277-459-3	Distribution of Funds	34815	AMD	07/11/2011	2011-11/24
R277-460	Distribution of Substance Abuse Prevention Account	35166	AMD	10/11/2011	2011-17/30
R277-464	Highly Impacted Schools	34828	REP	07/11/2011	2011-11/25
R277-470-12	Charter School Oversight and Monitoring	34333	AMD	02/22/2011	2011-2/21
R277-473	Testing Procedures	34924	AMD	08/08/2011	2011-13/46
R277-473-4	Security of Testing Materials	35116	NSC	08/31/2011	Not Printed
R277-474	School Instruction and Human Sexuality	34925	AMD	08/08/2011	2011-13/50
R277-474-1	Definitions	35115	NSC	08/31/2011	Not Printed
R277-475	Patriotic Education	34816	AMD	07/11/2011	2011-11/27
R277-477	Distribution of Funds from the Interest and Dividend Account (School LAND Trust Funds) and Administration of the School LAND Trust Program	34817	AMD	07/11/2011	2011-11/29
R277-477	Distribution of Funds from the Interest and Dividend Account (School LAND Trust Funds) and Administration of the School LAND Trust Program	35346	AMD	12/08/2011	2011-21/20
R277-478	Block Grant Funding	34998	5YR	06/30/2011	2011-14/138
R277-478	Block Grant Funding	34926	AMD	08/08/2011	2011-13/53
R277-479	Expenditure of Appropriation for District Services	35000	5YR	06/30/2011	2011-14/138
R277-479	Expenditure of Appropriation for District Services	35167	REP	10/11/2011	2011-17/32
R277-480	Charter Schools School Building Subaccount	34818	AMD	07/11/2011	2011-11/33
R277-480	Charter School Revolving Account	35375	AMD	12/27/2011	2011-22/24
R277-480-3	Charter School Revolving Account Committee	35088	NSC	08/16/2011	Not Printed
R277-484	Data Standards	34819	AMD	07/11/2011	2011-11/35
R277-487	Public School Student Confidentiality	35243	NEW	11/08/2011	2011-19/14
R277-490	Beverly Taylor Sorenson Elementary Arts Learning Program	34820	AMD	07/11/2011	2011-11/39
R277-491	School Community Councils	34927	AMD	08/08/2011	2011-13/55
R277-495	Required Policies for Electronic Devices in Public Schools	34821	AMD	07/11/2011	2011-11/41
R277-500	Educator Licensing Renewal, Timelines, and Required Fingerprint Background Checks (Effective Beginning July 1, 2012)	34822	NEW	07/11/2011	2011-11/43

RULES INDEX

R277-501-9	Rule Effective Date	34823	AMD	07/11/2011	2011-11/48
R277-503-1	Definitions	34457	NSC	03/10/2011	Not Printed
R277-510	Educator Licensing - Highly Qualified Assignment	34494	5YR	03/04/2011	2011-7/48
R277-512-3	Procedures	35533	NSC	12/30/2011	Not Printed
R277-513	Dual Certification	34537	5YR	03/30/2011	2011-8/32
R277-520	Appropriate Licensing and Assignment of Teachers	34334	AMD	02/22/2011	2011-2/22
R277-530	Utah Effective Teaching and Educational Leadership Standards	35168	NEW	10/11/2011	2011-17/34
R277-531	Public Educator Evaluation Requirements (PEER)	35244	NEW	11/08/2011	2011-19/16
R277-600-10	Special Transportation Levy	35347	AMD	12/08/2011	2011-21/25
R277-602	Special Needs Scholarships - Funding and Procedures	34335	AMD	02/22/2011	2011-2/26
R277-603	Autism Awareness Restricted Account Distribution	35245	NEW	11/08/2011	2011-19/18
R277-603-1	Definitions	35415	NSC	11/28/2011	Not Printed
R277-604	Private School, Home School, Electronic High School (EHS), and Bureau of Indian Affairs (BIA) Student Participation in Public School Achievement Tests	35378	5YR	10/27/2011	2011-22/63
R277-609	Standards for School District, School and Charter School Discipline Plans	34824	AMD	07/11/2011	2011-11/48
R277-610	Released-Time Classes for Religious Instruction	35246	AMD	11/08/2011	2011-19/19
R277-613	School District and Charter School Bullying and Hazing Policies and Training	34825	AMD	07/11/2011	2011-11/51
R277-614	Athletes and Students with Head Injuries	35247	NEW	11/08/2011	2011-19/21
R277-616	Education for Homeless and Emancipated Students and State Funding for Homeless and Disadvantaged Minority Students	34928	AMD	08/08/2011	2011-13/58
R277-701	Robert C. Byrd Honors Scholarship Program	35248	REP	11/08/2011	2011-19/23
R277-705	Secondary School Completion and Diplomas	34936	AMD	08/08/2011	2011-13/60
R277-706	Public Education Regional Service Centers	34826	NEW	07/11/2011	2011-11/54
R277-707	Enhancement for Accelerated Students Program	34937	NEW	08/08/2011	2011-13/63
R277-708	Enhancement for At-Risk Students Program	35169	NEW	10/11/2011	2011-17/36
R277-708-1	Definitions	35340	NSC	10/31/2011	Not Printed
R277-709	Education Programs Serving Youth in Custody	34429	AMD	04/08/2011	2011-5/17
R277-710	International Baccalaureate Programs	34829	REP	07/11/2011	2011-11/56
R277-711	Educational Programs for Gifted and Talented Students	34830	REP	07/11/2011	2011-11/57
R277-712	Advanced Placement Programs	34831	REP	07/11/2011	2011-11/59
R277-713	Concurrent Enrollment of High School Students in College Courses	34827	AMD	07/11/2011	2011-11/61
R277-715	English Language Learner Family Literacy Centers	34832	REP	07/11/2011	2011-11/63
R277-716	Alternative Language Services for Utah Students	34538	5YR	03/30/2011	2011-8/32
R277-717	Mathematics, Engineering, Science Achievement (MESA)	34999	5YR	06/30/2011	2011-14/139
R277-717	Mathematics, Engineering, Science Achievement (MESA)	34833	REP	07/11/2011	2011-11/65
R277-726	Statewide Public Education Online Program	35003	EMR	06/30/2011	2011-14/129
R277-726	Statewide Public Education Online Program	35170	NEW	10/11/2011	2011-17/38
R277-733	Adult Education Programs	34231	AMD	01/10/2011	2010-23/31
R277-746	Driver Education Programs for Utah Schools	35249	AMD	11/08/2011	2011-19/25
R277-747	Private School Student Driver Education	35250	REP	11/08/2011	2011-19/26
R277-760	Flow Through Funds for Students at Risk	34834	REP	07/11/2011	2011-11/67
R277-800-5	USDB or Student's District of Residence/Charter School as Designated LEA	34359	NSC	01/27/2011	Not Printed
R277-914	Applied Technology Education (ATE) Leadership	35379	5YR	10/27/2011	2011-22/64
R277-914	Applied Technology Education (ATE) Leadership	35348	AMD	12/08/2011	2011-21/26

Rehabilitation

R280-204	Utah State Office of Rehabilitation Employee Background Check Requirement	34539	5YR	03/30/2011	2011-8/33
----------	---	-------	-----	------------	-----------

ENVIRONMENTAL QUALITY

Administration

R305-6	Administrative Procedures	34472	NEW	08/31/2011	2011-6/53
R305-6	Administrative Procedures	34472	CPR	08/31/2011	2011-15/108

Air Quality

R307-103	Administrative Procedures	34682	R&R	08/29/2011	2011-9/9
R307-110-17	Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits	34351	AMD	05/04/2011	2011-3/25
R307-110-17	Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits	34775	NSC	06/01/2011	Not Printed
R307-110-28	Regional Haze	34350	AMD	04/07/2011	2011-3/26
R307-120-8	Appeal and Revocation	34689	AMD	08/29/2011	2011-9/13
R307-121	General Requirements: Clean Air and Efficient Vehicle Tax Credit	35222	AMD	01/01/2012	2011-19/27
R307-202	Emission Standards: General Burning	34868	NSC	06/14/2011	Not Printed
R307-204	Emission Standards: Smoke Management	34559	AMD	07/07/2011	2011-9/14
R307-210	Stationary Sources	34557	5YR	04/06/2011	2011-9/118
R307-214	National Emission Standards for Hazardous Air Pollutants	34428	AMD	06/01/2011	2011-5/20
R307-328	Gasoline Transfer and Storage	34349	AMD	06/07/2011	2011-3/28
R307-328	Gasoline Transfer and Storage	34349	CPR	06/07/2011	2011-9/114
R307-342	Qualification of Contractors and Test Procedures for Vapor Recovery Systems for Gasoline Delivery Tanks	34348	REP	06/07/2011	2011-3/32

Drinking Water

R309-100-4	General	34112	AMD	02/03/2011	2010-20/51
R309-105-14	Operational Reports	35240	AMD	11/23/2011	2011-19/30
R309-110-4	Definitions	34243	AMD	05/09/2011	2010-23/34
R309-110-4	Definitions	34243	CPR	05/09/2011	2011-7/28
R309-115	Administrative Procedures	34696	R&R	08/29/2011	2011-9/18
R309-215-16	Groundwater Rule	34375	NSC	02/14/2011	Not Printed
R309-405	Compliance and Enforcement: Administrative Penalty	35486	NSC	12/21/2011	Not Printed
R309-520	Facility Design and Operation: Disinfection	34244	AMD	05/09/2011	2010-24/8
R309-520	Facility Design and Operation: Disinfection	34244	CPR	05/09/2011	2011-7/33
R309-700-5	Loan, Credit Enhancement, Interest Buy-Down, and Hardship Grant Consideration Policy	34552	AMD	07/01/2011	2011-9/22
R309-705-6	Applicant Priority System and Selection of Terms of Assistance	34553	AMD	07/01/2011	2011-9/25
R309-800	Capacity Development Program	34450	AMD	05/23/2011	2011-6/72

Environmental Response and Remediation

R311-200	Underground Storage Tanks: Definitions	34270	AMD	02/14/2011	2010-24/19
R311-201	Underground Storage Tanks: Certification Programs and UST Operator Training	34271	AMD	02/14/2011	2010-24/23
R311-201-9	Revocation of Certification	34698	AMD	08/29/2011	2011-9/27
R311-201-11	Work Performed by Licensed Engineers or Geologists	34739	LNR	05/01/2011	2011-10/123
R311-203	Underground Storage Tanks: Technical Standards	34272	AMD	02/14/2011	2010-24/27
R311-205	Underground Storage Tanks: Site Assessment Protocol	34275	AMD	02/14/2011	2010-24/30
R311-206	Underground Storage Tanks: Financial Assurance Mechanisms	34273	AMD	02/14/2011	2010-24/33
R311-207	Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks	34274	AMD	02/14/2011	2010-24/35
R311-207	Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks	35155	AMD	10/17/2011	2011-17/42
R311-207-9	Third Party Consultant	34740	LNR	05/01/2011	2011-10/123

RULES INDEX

R311-210	Administrative Procedures for Underground Storage Tank Act Adjudicative Proceedings	34699	R&R	08/29/2011	2011-9/29
R311-212	Administration of the Petroleum Storage Tank Loan Fund	34269	AMD	02/14/2011	2010-24/38
R311-212	Administration of the Petroleum Storage Tank Loan Fund	35156	AMD	10/17/2011	2011-17/47
R311-500-9	Denial of Application and Revocation of Certification	34700	AMD	08/29/2011	2011-9/35
R311-600	Hazardous Substances Mitigation Act: Enforceable Written Assurances	35494	5YR	11/30/2011	2011-24/89
<u>Radiation Control</u>					
R313-12	General Provisions	35008	5YR	07/07/2011	2011-15/129
R313-14	Violations and Escalated Enforcement	35009	5YR	07/07/2011	2011-15/130
R313-16	General Requirements Applicable to the Installation, Registration, Inspection, and Use of Radiation Machines	35010	5YR	07/07/2011	2011-15/131
R313-17	Administrative Procedures	35011	5YR	07/07/2011	2011-15/131
R313-17	Administrative Procedures	34684	AMD	08/31/2011	2011-9/36
R313-17	Administrative Procedures	34684	CPR	08/31/2011	2011-15/126
R313-18	Notices, Instructions and Reports to Workers by Licensees or Registrants - Inspections	35012	5YR	07/07/2011	2011-15/132
R313-19	Requirements of General Applicability to Licensing of Radioactive Material	35282	5YR	09/23/2011	2011-20/67
R313-22	Specific Licenses	35283	5YR	09/23/2011	2011-20/67
R313-25	License Requirements for Land Disposal of Radioactive Waste	35284	5YR	09/23/2011	2011-20/68
R313-25-8	Technical Analyses	34240	AMD	04/04/2011	2010-23/48
R313-25-8	Technical Analyses	34240	CPR	04/04/2011	2011-5/102
R313-25-8	Technical Analyses	34963	NSC	07/13/2011	Not Printed
R313-26	Generator Site Access Permit Requirements for Accessing Utah Radioactive Waste Disposal Facilities	34555	5YR	04/06/2011	2011-9/118
R313-26-4	Shipper's Requirements	35069	AMD	09/22/2011	2011-15/75
R313-28	Use of X-Rays in the Healing Arts	35285	5YR	09/23/2011	2011-20/69
R313-32	Medical Use of Radioactive Material	35286	5YR	09/23/2011	2011-20/69
R313-36	Special Requirements for Industrial Radiographic Operations	35287	5YR	09/23/2011	2011-20/70
R313-70	Payments, Categories and Types of Fees	35288	5YR	09/23/2011	2011-20/71
<u>Solid and Hazardous Waste</u>					
R315-1	Utah Hazardous Waste Definitions and References	35036	5YR	07/13/2011	2011-15/132
R315-2	General Requirements - Identification and Listing of Hazardous Waste	35038	5YR	07/13/2011	2011-15/133
R315-2-14	Violations, Orders, and Hearings	34701	AMD	08/29/2011	2011-9/41
R315-3	Application and Permit Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities	35039	5YR	07/13/2011	2011-15/133
R315-4	Procedures for Decisionmaking	35040	5YR	07/13/2011	2011-15/134
R315-5	Hazardous Waste Generator Requirements	35041	5YR	07/13/2011	2011-15/135
R315-6	Hazardous Waste Transporter Requirements	35042	5YR	07/13/2011	2011-15/135
R315-7	Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities	35043	5YR	07/13/2011	2011-15/136
R315-8	Hazardous Waste Treatment, Storage, and Disposal Standards for Owners and Operators of Facilities	35044	5YR	07/13/2011	2011-15/137
R315-9	Emergency Controls	35045	5YR	07/13/2011	2011-15/137
R315-12	Administrative Procedures	34920	5YR	06/14/2011	2011-13/84
R315-12	Administrative Procedures	34702	R&R	08/29/2011	2011-9/42
R315-12	Administrative Procedures	35190	NSC	09/14/2011	Not Printed
R315-13	Land Disposal Restrictions	35046	5YR	07/13/2011	2011-15/138
R315-14	Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities	35047	5YR	07/13/2011	2011-15/138

R315-17	End of Life Automotive Mercury Switch Removal Standards	35050	5YR	07/13/2011	2011-15/139
R315-50	Appendices	35048	5YR	07/13/2011	2011-15/140
R315-101	Cleanup Action and Risk-Based Closure Standards	35049	5YR	07/13/2011	2011-15/140

Water Quality

R317-1-7	TMDLs	34437	AMD	04/13/2011	2011-5/26
R317-1-7	TMDLs	35082	AMD	10/04/2011	2011-15/77
R317-1-7	TMDLs	35221	AMD	11/07/2011	2011-18/10
R317-7	Underground Injection Control (UIC) Program	34951	5YR	06/20/2011	2011-14/139
R317-9	Administrative Procedures	34697	R&R	08/29/2011	2011-9/46
R317-10	Certification of Wastewater Works Operator	35203	AMD	10/26/2011	2011-18/11
R317-11	Certification Required to Design, Inspect and Maintain Underground Wastewater Disposal Systems, or Conduct Percolation and Soil Tests for Underground Wastewater Disposal Systems	34978	5YR	06/27/2011	2011-14/140

FAIR CORPORATION (UTAH STATE)

Administration

R325-1	Utah State Fair Competitive Exhibitor Rules	34464	5YR	02/24/2011	2011-6/101
R325-2	Utah State Fair Commercial Exhibitor Rules	34465	5YR	02/24/2011	2011-6/102
R325-3	Utah State Fair Patron Rules	34466	5YR	02/24/2011	2011-6/103
R325-4	Interim Patrons Rules (Other Than Utah State Fair)	34467	5YR	02/24/2011	2011-6/103
R325-5	Interim Renters Rules (Other Than Utah State Fair)	34468	5YR	02/24/2011	2011-6/104

FINANCIAL INSTITUTIONS

Administration

R331-3	Rule to Govern Persons Soliciting Savings or Share Accounts, Deposit Accounts, or Similar Evidence of Indebtedness or Participation Interests Therein from Residents of this State	35153	REP	10/10/2011	2011-17/50
R331-26	Ownership of Real Estate Other Than Property Used for Institution Business or Held as an Investment by Depository Institutions Subject to the Jurisdiction of the Department of Financial Institutions	34207	NEW	02/01/2011	2010-22/61

Banks

R333-11	Ownership by State-Chartered Banks of Real Estate Other Than Property Used for Bank Business or Held as an Investment	34206	REP	02/01/2011	2010-22/63
R333-13	Rule Designating Applicable Federal Law for Banks Subject to the Jurisdiction of the Department of Financial Institutions	35517	5YR	12/09/2011	2012-1/71

Industrial Loan Corporations

R339-6	Rule Clarifying Industrial Loan Corporation Investments	34205	AMD	02/01/2011	2010-22/65
R339-12	Rule Designating Applicable Federal Law for Industrial Loan Corporations Subject to the Jurisdiction of the Department of Financial Institutions	35518	5YR	12/09/2011	2012-1/71

GOVERNOR

Economic Development

R357-5	Motion Picture Incentive Fund	34762	NEW	06/30/2011	2011-10/22
R357-6	Technology and Life Science Economic Development and Related Tax Credits	34929	EMR	06/15/2011	2011-13/80
R357-6	Technology and Life Science Economic Development and Related Tax Credits	34930	NEW	08/08/2011	2011-13/65

RULES INDEX

Economic Development, Pete Suazo Utah Athletic Commission

R359-1-102	Definitions	34279	AMD	02/22/2011	2010-24/41
R359-1-301	Qualifications for Licensure	34407	AMD	03/28/2011	2011-4/18
R359-1-301	Qualifications for Licensure	35200	AMD	12/15/2011	2011-18/14
R359-1-501	Promoter's Responsibilities in Arranging a Contest	34366	AMD	03/28/2011	2011-4/19
R359-1-501	Promoter's Responsibilities in Arranging a Contest	34408	AMD	03/28/2011	2011-4/21
R359-1-501	Promoter's Responsibilities in Arranging a Contest	34901	AMD	07/26/2011	2011-12/43
R359-1-501	Promoter's Responsibilities in Arranging a Contest	35199	AMD	12/15/2011	2011-18/15
R359-1-506	Drug Tests	34278	AMD	01/31/2011	2010-24/42
R359-1-511	Event Officials	34482	AMD	04/26/2011	2011-6/76
R359-1-512	Announcer	34483	AMD	04/26/2011	2011-6/78
R359-1-515	Competing in an Unsanctioned Unarmed Combat Event	34484	AMD	04/26/2011	2011-6/79
R359-1-515	Competing in an Unsanctioned Unarmed Combat Event	34900	AMD	07/26/2011	2011-12/45

HEALTH

Administration

R380-70-6	Electronic Data Interchange Standards	34497	AMD	07/05/2011	2011-7/3
R380-100	Americans with Disabilities Act Grievance Procedures	34554	R&R	08/22/2011	2011-9/55
R380-200	Patient Safety Sentinel Event Reporting	35234	5YR	09/14/2011	2011-19/65
R380-210	Health Care Facility Patient Safety Program	35235	5YR	09/14/2011	2011-19/66
R380-400	Use of Statistical Sampling and Extrapolation	35216	NEW	11/22/2011	2011-18/17

Center for Health Data, Health Care Statistics

R428-1	Adoption of Health Data Plan	35474	5YR	11/21/2011	2011-24/89
R428-2	Health Data Authority Standards for Health Data	35488	5YR	11/30/2011	2011-24/90
R428-5	Appeal and Adjudicative Proceedings	35489	5YR	11/30/2011	2011-24/91
R428-10	Health Data Authority Hospital Inpatient Reporting Rule	35490	5YR	11/30/2011	2011-24/91
R428-12	Health Data Authority Survey of Enrollees in Health Maintenance Organizations	35491	5YR	11/30/2011	2011-24/92

Center for Health Data, Vital Records and Statistics

R436-3	Amendment of Vital Records	34493	NSC	04/06/2011	Not Printed
R436-5	New Birth Certificates After Legitimation, Court Determination of Paternity or Adoption	35118	5YR	08/08/2011	2011-17/94

Children's Health Insurance Program

R382-1	Benefits and Administration	34560	AMD	06/16/2011	2011-9/59
R382-10	Eligibility	34561	AMD	08/22/2011	2011-9/61
R382-10	Eligibility	34561	CPR	08/22/2011	2011-14/126
R382-10	Eligibility	35298	AMD	12/01/2011	2011-20/17

Community and Family Health Services, Children with Special Health Care Needs

R398-1	Newborn Screening	34588	NSC	05/03/2011	Not Printed
R398-2	Newborn Hearing Screening	34589	NSC	05/03/2011	Not Printed
R398-5	Birth Defects Reporting	34590	NSC	05/03/2011	Not Printed
R398-10	Autism Spectrum Disorders and Mental Retardation Reporting	34591	NSC	05/03/2011	Not Printed
R398-20	Early Intervention	34592	NSC	05/03/2011	Not Printed

Community and Family Health Services, Chronic Disease

R384-100	Cancer Reporting Rule	34563	NSC	05/03/2011	Not Printed
----------	-----------------------	-------	-----	------------	-------------

Community and Family Health Services, Immunization

R396-100	Immunization Rule for Students	34587	NSC	05/03/2011	Not Printed
----------	--------------------------------	-------	-----	------------	-------------

Community and Family Health Services, WIC Services

R406-100	Special Supplemental Nutrition Program for	34593	NSC	05/03/2011	Not Printed
----------	--	-------	-----	------------	-------------

	Women, Infants and Children				
R406-200	Program Overview	34594	NSC	05/03/2011	Not Printed
R406-201	Outreach Program	34595	NSC	05/03/2011	Not Printed
R406-202	Eligibility	34596	NSC	05/03/2011	Not Printed
R406-301	Clinic Guidelines	34597	NSC	05/03/2011	Not Printed
<u>Disease Control and Prevention, Environmental Services</u>					
R392-110	Home-based Child Care Food Service	34985	5YR	06/28/2011	2011-14/140
R392-302	Design, Construction, and Operation of Public Pools	35113	NSC	08/31/2011	Not Printed
<u>Disease Control and Prevention, Epidemiology</u>					
R386-702	Communicable Disease Rule	35327	5YR	10/12/2011	2011-21/159
<u>Disease Control and Prevention, Laboratory Improvement</u>					
R444-1	Approval of Clinical Laboratories	35107	5YR	08/03/2011	2011-17/94
R444-14	Rule for the Certification of Environmental Laboratories	35111	5YR	08/04/2011	2011-17/95
R444-14	Rule for the Certification of Environmental Laboratories	35110	AMD	10/12/2011	2011-17/52
<u>Disease Control and Prevention, Laboratory Services</u>					
R438-10	Rules for Establishment of a Procedure to Examine the Blood of all Adult Pedestrians and all Drivers of Motor Vehicles Killed in Highway Accidents for the Presence and Concentration of Alcohol, for the Purpose of Deriving Statistics Therefrom	35329	5YR	10/12/2011	2011-21/160
<u>Disease Control and Prevention: HIV/AIDS, Tuberculosis Control/Refugee Health</u>					
R388-803	HIV Test Reporting	35373	5YR	10/21/2011	2011-22/64
R388-804	Special Measures for the Control of Tuberculosis	35367	5YR	10/18/2011	2011-22/65
R388-805	Ryan White Program	35368	5YR	10/18/2011	2011-22/65
<u>Epidemiology and Laboratory Services, Environmental Services</u>					
R392-100	Food Service Sanitation	34571	NSC	05/03/2011	Not Printed
R392-101	Food Safety Manager Certification	34572	NSC	05/03/2011	Not Printed
R392-110	Home-base Child Care Food Service	34573	NSC	05/03/2011	Not Printed
R392-200	Design, Construction, Operation, Sanitation, and Safety of Schools	34144	AMD	02/16/2011	2010-21/17
R392-200	Design, Construction, Operation, Sanitation and Safety of Schools	34574	NSC	05/03/2011	Not Printed
R392-300	Recreation Camp Sanitation	34575	NSC	05/03/2011	Not Printed
R392-301	Recreational Vehicle Park Sanitation	34576	NSC	05/03/2011	Not Printed
R392-302	Design, Construction and Operation of Public Pools	34577	NSC	05/03/2011	Not Printed
R392-303	Public Geothermal Pools and Bathing Places	34578	NSC	05/03/2011	Not Printed
R392-400	Temporary Mass Gatherings Sanitation	34579	NSC	05/03/2011	Not Printed
R392-401	Roadway Rest Stop Sanitation	34580	NSC	05/03/2011	Not Printed
R392-402	Mobile Home Park Sanitation	34581	NSC	05/03/2011	Not Printed
R392-501	Labor Camp Sanitation	34582	NSC	05/03/2011	Not Printed
R392-502	Hotel, Motel and Resort Sanitation	34583	NSC	05/03/2011	Not Printed
R392-510	Utah Indoor Clean Air Act	34584	NSC	05/03/2011	Not Printed
R392-510	Utah Indoor Clean Air Act	34733	AMD	09/12/2011	2011-10/24
R392-600	Illegal Drug Operations Decontamination Standards	34585	NSC	05/03/2011	Not Printed
R392-700	Indoor Tanning Bed Sanitation	34586	NSC	05/03/2011	Not Printed
<u>Epidemiology and Laboratory Services, Epidemiology</u>					
R386-702	Communicable Disease Rule	34564	NSC	05/03/2011	Not Printed
R386-703	Injury Reporting Rule	34508	5YR	03/14/2011	2011-7/48
R386-703	Injury Reporting Rule	34565	NSC	05/03/2011	Not Printed
R386-705	Epidemiology, Health Care Associated Infection	34566	NSC	05/03/2011	Not Printed
R386-800	Immunization Coordination	34567	NSC	05/03/2011	Not Printed
<u>Epidemiology and Laboratory Services, Laboratory Improvement</u>					

RULES INDEX

R444-1	Approval of Clinical Laboratories	34668	NSC	05/03/2011	Not Printed
R444-11	Rules for Approval to Perform Blood Alcohol Examinations.	34669	NSC	05/03/2011	Not Printed
R444-14	Rule for the Certification of Environmental Laboratories	34670	NSC	05/03/2011	Not Printed
<u>Epidemiology and Laboratory Services, Laboratory Services</u>					
R438-10	Rules for Establishment of a Procedure to Examine the Blood of all Adult Pedestrians and all Drivers of Motor Vehicles Killed in Highway Accidents for the Presence and Concentration of Alcohol, for the Purpose of Deriving Statistics Therefrom	34665	NSC	05/03/2011	Not Printed
R438-12	Rule for Law Enforcement Blood Draws	34666	NSC	05/03/2011	Not Printed
R438-13	Rules for the Certification of Institutions to Obtain Impounded Animals in the State of Utah	34667	NSC	05/03/2011	Not Printed
<u>Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health</u>					
R388-803	HIV Test Reporting	34568	NSC	05/03/2011	Not Printed
R388-804	Special Measures for the Control of Tuberculosis	34569	NSC	05/03/2011	Not Printed
R388-805	Ryan White Program	34570	NSC	05/03/2011	Not Printed
<u>Family Health and Preparedness, Emergency Medical Services</u>					
R426-5	Statewide Trauma System Standards	35196	AMD	11/16/2011	2011-18/21
R426-16	Emergency Medical Services Ambulance Rates and Charges	34902	AMD	07/26/2011	2011-12/49
<u>Family Health and Preparedness, Licensing</u>					
R432-3-3	Deemed Status	35025	AMD	10/01/2011	2011-15/78
R432-31	Life with Dignity Order	35029	AMD	10/01/2011	2011-15/79
R432-35	Background Screening	35030	AMD	10/01/2011	2011-15/81
R432-100-8	Personnel Management Service	35031	AMD	10/01/2011	2011-15/82
R432-200-7	Administration and Organization	35026	AMD	10/01/2011	2011-15/83
R432-270	Assisted Living Facilities	35021	AMD	10/01/2011	2011-15/85
R432-300-8	Administration and Organization	35032	AMD	10/01/2011	2011-15/88
R432-500-11	Staff and Personnel	35033	AMD	10/01/2011	2011-15/89
R432-500-11	Freestanding Ambulatory Surgical Center Rules	35476	NSC	12/21/2011	Not Printed
R432-550-10	Personnel	35023	AMD	10/01/2011	2011-15/90
R432-600	Abortion Clinic Rule	35322	AMD	12/23/2011	2011-21/120
R432-600-21	Abortion Clinic Rule	35479	NSC	12/30/2011	Not Printed
R432-650-6	Personnel Health	35022	AMD	10/01/2011	2011-15/91
R432-700	Home Health Agency Rule	35028	AMD	10/01/2011	2011-15/92
R432-700-11	Home Health Agency Rule	35478	NSC	12/21/2011	Not Printed
R432-725	Personal Care Agency Rule	35027	NEW	10/01/2011	2011-15/94
R432-725-7	Personal Care Agency Rule	35477	NSC	12/21/2011	Not Printed
R432-750-8	Personnel	35024	AMD	10/01/2011	2011-15/97
<u>Family Health and Preparedness, WIC Services</u>					
R406-100	Special Supplemental Nutrition Program for Women, Infants and Children	35084	AMD	10/28/2011	2011-16/22
R406-200	Program Overview	35085	AMD	10/28/2011	2011-16/24
R406-202-1	Certification and Eligibility	35086	AMD	10/28/2011	2011-16/26
<u>Health Care Financing</u>					
R410-14	Administrative Hearing Procedures	34147	R&R	04/25/2011	2010-21/19
R410-14	Administrative Hearing Procedures	34147	CPR	04/25/2011	2011-6/96
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-1	Utah Medicaid Program	34228	AMD	01/19/2011	2010-23/49
R414-1-5	Incorporations by Reference	34315	AMD	04/05/2011	2011-1/20
R414-1-5	Incorporations by Reference	34523	AMD	05/25/2011	2011-8/18
R414-1-5	Incorporations by Reference	34938	AMD	08/22/2011	2011-14/53
R414-1-5	Incorporations by Reference	35225	AMD	11/15/2011	2011-19/39
R414-1-29	Provider-Preventable Conditions	34992	EMR	07/01/2011	2011-14/133
R414-1-29	Provider-Preventable Conditions	34993	AMD	09/01/2011	2011-14/54

R414-3A-2	Definitions	35207	AMD	11/15/2011	2011-18/20
R414-3A-6	Services	34893	AMD	09/01/2011	2011-12/46
R414-4A	Outpatient Hospital Services: Payment of Triage Fee	34894	REP	08/01/2011	2011-12/47
R414-14	Home Health Services	34524	AMD	05/25/2011	2011-8/9
R414-14	Home Health Services	34994	AMD	08/22/2011	2011-14/55
R414-14-2	Definitions	35227	AMD	11/15/2011	2011-19/41
R414-14A	Hospice Care	34509	AMD	05/16/2011	2011-7/5
R414-22	Administrative Sanction Procedures and Regulations	34995	AMD	08/22/2011	2011-14/56
R414-40-4	Service Coverage for Private Duty Nursing	35303	AMD	12/01/2011	2011-20/25
R414-54	Speech-Language Pathology Services	34939	AMD	08/22/2011	2011-14/60
R414-54-3	Services	34316	AMD	04/05/2011	2011-1/21
R414-54-3	Services	34525	AMD	05/25/2011	2011-8/22
R414-54-3	Services	35228	AMD	11/15/2011	2011-19/42
R414-59	Audiology-Hearing Services	34940	AMD	08/22/2011	2011-14/61
R414-59-4	Client Eligibility Requirements	34317	AMD	04/05/2011	2011-1/22
R414-59-4	Client Eligibility Requirements	34526	AMD	05/25/2011	2011-8/23
R414-59-4	Client Eligibility Requirements	35229	AMD	11/15/2011	2011-19/43
R414-61	Home and Community-Based Services Waivers	34314	AMD	04/05/2011	2011-1/23
R414-303-11	Prenatal and Newborn Medicaid	34229	AMD	01/27/2011	2010-23/52
R414-304	Income and Budgeting	34556	AMD	06/16/2011	2011-9/64
R414-305	Resources	34683	AMD	06/16/2011	2011-9/80
R414-308	Application, Eligibility Determinations and Improper Medical Assistance	35100	AMD	10/01/2011	2011-16/27
R414-310	Medicaid Primary Care Network Demonstration Waiver	35334	AMD	12/23/2011	2011-21/98
R414-320	Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver	35336	5YR	10/13/2011	2011-21/159
R414-320	Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver	35335	AMD	12/23/2011	2011-21/109
R414-401-3	Assessment	34767	AMD	07/01/2011	2011-10/26
R414-501	Preadmission Authorization, Retroactive Authorization, and Continued Stay Review	34267	AMD	04/05/2011	2010-24/44
R414-501-3	Preadmission Authorization	34562	AMD	06/07/2011	2011-9/92
R414-504	Nursing Facility Payments	34766	AMD	07/01/2011	2011-10/27
<u>Health Systems Improvement, Child Care Licensing</u>					
R430-2	General Licensing Provisions, Child Care Facilities	34609	NSC	05/03/2011	Not Printed
R430-3	General Child Care Facility Rules Inspection and Enforcement	34610	NSC	05/03/2011	Not Printed
R430-4	General Certificate Provisions	34611	NSC	05/03/2011	Not Printed
R430-6	Background Screening	34612	NSC	05/03/2011	Not Printed
R430-8	Exemptions From Child Care Licensing	34613	NSC	05/03/2011	Not Printed
R430-30	Adjudicative Procedure	34614	NSC	05/03/2011	Not Printed
R430-50	Residential Certificate Child Care	34615	NSC	05/03/2011	Not Printed
R430-60	Hourly Child Care Center	34616	NSC	05/03/2011	Not Printed
R430-70	Out of School Time Child Care Programs	34617	NSC	05/03/2011	Not Printed
R430-90	Licensed Family Child Care	34618	NSC	05/03/2011	Not Printed
R430-100	Child Care Licensing	34619	NSC	05/03/2011	Not Printed
<u>Health Systems Improvement, Emergency Medical Services</u>					
R426-2	Air Medical Service Rules	34598	NSC	05/03/2011	Not Printed
R426-5	Statewide Trauma System Standards	34599	NSC	05/03/2011	Not Printed
R426-6	Emergency Medical Services Competitive Grants Program Rules	34600	NSC	05/03/2011	Not Printed
R426-7	Emergency Medical Services Prehospital Data System Rules	34358	5YR	01/12/2011	2011-3/55
R426-7	Emergency Medical Services Prehospital Data System Rules	34601	NSC	05/03/2011	Not Printed
R426-8	Emergency Medical Services Per Capita Grants Program Rules	34346	5YR	01/05/2011	2011-3/56
R426-8	Emergency Medical Services Per Capita Grants Program Rules	34602	NSC	05/03/2011	Not Printed
R426-11	General Provisions	34603	NSC	05/03/2011	Not Printed

RULES INDEX

R426-12	Emergency Medical Services Training and Certification Standards	34604	NSC	05/03/2011	Not Printed
R426-13	Emergency Medical Services Provider Designations	34605	NSC	05/03/2011	Not Printed
R426-14	Ambulance Service and Paramedic Service Licensure	34606	NSC	05/03/2011	Not Printed
R426-15	Licensed and Designated Provider Operations	34607	NSC	05/03/2011	Not Printed
R426-16	Emergency Medical Services Ambulance Rates and Charges	34608	NSC	05/03/2011	Not Printed
<u>Health Systems Improvement, Licensing</u>					
R432-1	General Health Care Facility Rules	34620	NSC	05/03/2011	Not Printed
R432-2	General Licensing Provisions	34621	NSC	05/03/2011	Not Printed
R432-3	General Health Care Facility Rules Inspection and Enforcement	34622	NSC	05/03/2011	Not Printed
R432-4	General Construction	34623	NSC	05/03/2011	Not Printed
R432-5	Nursing Facility Construction	34624	NSC	05/03/2011	Not Printed
R432-6	Assisted Living Facility General Construction	34625	NSC	05/03/2011	Not Printed
R432-7	Specialty Hospital - Psychiatric Hospital Construction	34626	NSC	05/03/2011	Not Printed
R432-8	Specialty Hospital - Chemical Dependency/Substance Abuse Construction	34627	NSC	05/03/2011	Not Printed
R432-9	Specialty Hospital - Rehabilitation Construction Rule	34628	NSC	05/03/2011	Not Printed
R432-10	Specialty Hospital - Long-Term Acute Care Construction Rule	34629	NSC	05/03/2011	Not Printed
R432-11	Orthopedic Hospital Construction	34630	NSC	05/03/2011	Not Printed
R432-12	Small Health Care Facility (Four to Sixteen Beds) Construction Rule	34631	NSC	05/03/2011	Not Printed
R432-13	Freestanding Ambulatory Surgical Center Construction Rule	34632	NSC	05/03/2011	Not Printed
R432-14	Birth Center Construction Rule	34633	NSC	05/03/2011	Not Printed
R432-16	Hospice Inpatient Facility Construction	34634	NSC	05/03/2011	Not Printed
R432-30	Adjudicative Procedure	34635	NSC	05/03/2011	Not Printed
R432-31	Life with Dignity Order	34636	NSC	05/03/2011	Not Printed
R432-32	Licensing Exemption for Non-Profit Volunteer End-of-Life Care	34637	NSC	05/03/2011	Not Printed
R432-35	Background Screening	34638	NSC	05/03/2011	Not Printed
R432-40	Long-Term Care Facility Immunizations	34639	NSC	05/03/2011	Not Printed
R432-100	General Hospital Standards	34640	NSC	05/03/2011	Not Printed
R432-101	Specialty Hospital - Psychiatric	34318	AMD	04/11/2011	2011-2/31
R432-101	Specialty Hospital - Psychiatric	34641	NSC	05/03/2011	Not Printed
R432-102	Specialty Hospital - Chemical Dependency/Substance Abuse	34642	NSC	05/03/2011	Not Printed
R432-103	Specialty Hospital - Rehabilitation	34643	NSC	05/03/2011	Not Printed
R432-104	Specialty Hospital - Long-Term Acute Care	34644	NSC	05/03/2011	Not Printed
R432-105	Specialty Hospital - Orthopedic	34645	NSC	05/03/2011	Not Printed
R432-106	Specialty Hospital - Critical Access	34646	NSC	05/03/2011	Not Printed
R432-150	Nursing Care Facility	34319	AMD	04/11/2011	2011-2/32
R432-150	Nursing Care Facility	34647	NSC	05/03/2011	Not Printed
R432-151	Mental Disease Facility	34648	NSC	05/03/2011	Not Printed
R432-152	Mental Retardation Facility	34649	NSC	05/03/2011	Not Printed
R432-200	Small Health Care Facility (Four to Sixteen Beds)	34650	NSC	05/03/2011	Not Printed
R432-201	Mental Retardation Facility: Supplement "A" to the Small Health Care Facility Rule	34651	NSC	05/03/2011	Not Printed
R432-270	Assisted Living Facilities	34652	NSC	05/03/2011	Not Printed
R432-300	Small Health Care Facility - Type N	34653	NSC	05/03/2011	Not Printed
R432-500	Freestanding Ambulatory Surgical Center Rules	34654	NSC	05/03/2011	Not Printed
R432-550	Birth Centers	34655	NSC	05/03/2011	Not Printed
R432-600	Abortion Clinic Rule	34320	AMD	04/11/2011	2011-2/36
R432-600	Abortion Clinic Rule	34656	NSC	05/03/2011	Not Printed
R432-650	End Stage Renal Disease Facility Rules	34657	NSC	05/03/2011	Not Printed
R432-700	Home Health Agency Rule	34321	AMD	04/11/2011	2011-2/37
R432-700	Home Health Agency Rule	34658	NSC	05/03/2011	Not Printed
R432-750	Hospice Rule	34659	NSC	05/03/2011	Not Printed

R432-950	Mammography Quality Assurance	34660	NSC	05/03/2011	Not Printed
<u>Health Systems Improvement, Primary Care and Rural Health</u>					
R434-30	Primary Care Grants Program for Medically Underserved Populations	34661	NSC	05/03/2011	Not Printed
R434-40	Utah Health Care Workforce Financial Assistance Program Rules	34662	NSC	05/03/2011	Not Printed
R434-50	Assistance for People with Bleeding Disorders	34327	NEW	03/01/2011	2011-2/38
R434-50	Assistance for People with Bleeding Disorders	34663	NSC	05/03/2011	Not Printed
R434-100	Physician Visa Waivers	34664	NSC	05/03/2011	Not Printed

Medical Examiner

R448-10	Unattended Death and Reporting Requirements	34671	NSC	05/03/2011	Not Printed
R448-20	Access to Medical Examiner Reports	34672	NSC	05/03/2011	Not Printed

HUMAN RESOURCE MANAGEMENT

Administration

R477-1	Definitions	34741	AMD	07/01/2011	2011-10/33
R477-2	Administration	34742	AMD	07/01/2011	2011-10/38
R477-4	Filling Positions	34743	AMD	07/01/2011	2011-10/40
R477-4-2	Career Service Exempt Positions	35251	AMD	11/07/2011	2011-19/44
R477-4-12	Career Mobility Programs	34443	AMD	04/07/2011	2011-5/27
R477-6	Compensation	34442	AMD	04/07/2011	2011-5/29
R477-6	Compensation	34744	AMD	07/01/2011	2011-10/41
R477-7	Leave	34745	AMD	07/01/2011	2011-10/45
R477-7	Leave	34996	AMD	09/03/2011	2011-14/62
R477-8	Working Conditions	34746	AMD	09/03/2011	2011-10/50
R477-8	Working Conditions	34997	AMD	09/03/2011	2011-14/63
R477-8-4	Overtime	35252	AMD	11/07/2011	2011-19/45
R477-9	Employee Conduct	34747	AMD	07/01/2011	2011-10/53
R477-10	Employee Development	34748	NSC	05/25/2011	Not Printed
R477-12-3	Reduction in Force	34749	AMD	07/01/2011	2011-10/54
R477-13	Volunteer Programs	34750	AMD	07/01/2011	2011-10/56
R477-14	Substance Abuse and Drug-Free Workplace	34751	AMD	07/01/2011	2011-10/57
R477-14	Substance Abuse and Drug-Free Workplace	35412	5YR	11/04/2011	2011-23/106

HUMAN SERVICES

Administration

R495-862	Communicable Disease Control Act	34536	5YR	03/30/2011	2011-8/33
R495-876	Provider Code of Conduct	35124	5YR	08/10/2011	2011-17/95
R495-878	Department of Human Services Civil Rights Complaint Procedure	35178	R&R	12/27/2011	2011-18/24
R495-879	Parental Support for Children in Care	34288	AMD	02/07/2011	2011-1/25
R495-880	Adoption Assistance	35123	5YR	08/10/2011	2011-17/96

Administration, Administrative Services, Licensing

R501-21	Outpatient Treatment Programs	34212	AMD	01/24/2011	2010-22/81
---------	-------------------------------	-------	-----	------------	------------

Aging and Adult Services

R510-401	Utah Caregiver Support Program (UCSP)	34390	5YR	01/26/2011	2011-4/37
----------	---------------------------------------	-------	-----	------------	-----------

Child and Family Services

R512-1-6	Out-of-Home Care Services	34344	NSC	01/26/2011	Not Printed
R512-10	Youth Mentor Program	35410	5YR	11/03/2011	2011-23/107
R512-11	Accommodation of Moral and Religious Beliefs and Culture	34368	5YR	01/18/2011	2011-4/38
R512-43	Adoption Assistance	35253	5YR	09/19/2011	2011-20/71
R512-44	Choose Life Adoption Support Restricted Account	35181	NEW	10/26/2011	2011-18/28
R512-60	Children's Trust Account	35254	5YR	09/19/2011	2011-20/72
R512-203	Child Protective Services, Significant Risk Assessments	34369	5YR	01/18/2011	2011-4/38
R512-205	Child Protective Services, Investigation of Domestic Violence Related Child Abuse	34778	EMR	05/10/2011	2011-11/108

RULES INDEX

R512-205	Child Protective Services, Investigation of Domestic Violence Related Child Abuse	34779	NEW	07/28/2011	2011-11/69
R512-205-4	Investigation	35310	AMD	12/08/2011	2011-21/128
R512-308	Out-of-Home Services, Guardianship Services and Placements	34471	5YR	02/28/2011	2011-6/104
<u>Recovery Services</u>					
R527-34	Non-IV-A Services	35457	5YR	11/17/2011	2011-24/92
R527-35	Non-IV-A Fee Schedule	35458	5YR	11/17/2011	2011-24/93
R527-200	Administrative Procedures	34529	5YR	03/25/2011	2011-8/34
R527-201	Medical Support Services	35495	5YR	12/01/2011	2011-24/93
R527-231	Review and Adjustment of Child Support Order	34522	5YR	03/17/2011	2011-8/35
R527-250	Emancipation	34685	NEW	07/01/2011	2011-9/96
R527-800	Acquisition of Real Property, and Medical Support Cooperation Requirements	34490	5YR	03/03/2011	2011-7/49
R527-936	Third Party Liability, Medicaid	34521	5YR	03/17/2011	2011-8/35
<u>Services for People with Disabilities</u>					
R539-1	Eligibility	34710	NSC	05/25/2011	Not Printed
R539-9	Supported Employment Pilot Program	35122	5YR	08/10/2011	2011-17/96
R539-9	Supported Employment Pilot Program	35176	AMD	12/27/2011	2011-18/33
<u>Substance Abuse and Mental Health</u>					
R523-20-11	Division Rules of Administration	34726	AMD	07/12/2011	2011-10/59
R523-21	Division of Substance Abuse and Mental Health Rules	34540	5YR	03/30/2011	2011-8/34
R523-23	On-Premise Alcohol Training and Education Seminar Rules of Administration	35223	AMD	11/07/2011	2011-19/48
R523-24	Off Premise Retailer (Clerk, Licensee and Manager) Alcohol Training and Education Seminar Rules of Administration	35037	5YR	07/13/2011	2011-15/141
R523-24	Off Premise Retailer (Clerk, Licensee and Manager) Alcohol Training and Education Seminar Rules of Administration	35191	AMD	10/24/2011	2011-18/30
<u>Substance Abuse and Mental Health, State Hospital</u>					
R525-8	Forensic Mental Health Facility	34720	5YR	04/26/2011	2011-10/118
INSURANCE					
<u>Administration</u>					
R590-91	Credit Life Insurance and Credit Accident and Health Insurance	35481	5YR	11/23/2011	2011-24/94
R590-93	Replacement of Life Insurance and Annuities	34026	AMD	01/10/2011	2010-18/59
R590-93	Replacement of Life Insurance and Annuities	34026	CPR	01/10/2011	2010-22/116
R590-99 (Changed to R592-14)	Delay or Failure to Record Documents and the Insuring of Properties with the False Appearance of Unmarketability as Unfair Title Insurance Practices	34931	AMD	08/09/2011	2011-13/66
R590-102	Insurance Department Fee Payment Rule	35587	5YR	12/29/2011	Not Printed
R590-103	Security Deposits	35554	5YR	12/19/2011	Not Printed
R590-121	Rate Modification Plan Rule	35570	5YR	12/22/2011	Not Printed
R590-126	Accident and Health Insurance Standards	35556	5YR	12/19/2011	Not Printed
R590-133	Variable Contracts	34175	AMD	01/10/2011	2010-22/98
R590-133	Variable Contracts	35569	5YR	12/22/2011	Not Printed
R590-142	Continuing Education Rule	34953	R&R	08/23/2011	2011-14/64
R590-142-3	Definitions	35180	NSC	09/14/2011	Not Printed
R590-144	Commercial Aviation Insurance Exemption from Rate and Form Filings	34478	5YR	03/01/2011	2011-6/105
R590-148-24	Premium Rate Schedule Increases	34312	AMD	02/08/2011	2011-1/27
R590-149	ADA Complaint Procedure Rule	34896	AMD	08/02/2011	2011-12/51
R590-152	Health Discount Programs and Value Added Benefit Rule	34236	AMD	01/20/2011	2010-23/57
R590-160	Administrative Proceedings	35387	AMD	12/29/2011	2011-22/31
R590-167	Individual, Small Employer, and Group Health Benefit Plan Rule	34548	AMD	06/15/2011	2011-8/24
R590-167-4	Establishment of Classes of Business	34169	AMD	01/10/2011	2010-22/100

R590-172-4	Rule	35006	AMD	09/15/2011	2011-15/99
R590-172-4	Rule	35239	NSC	09/30/2011	Not Printed
R590-176	Health Benefit Plan Enrollment	35557	5YR	12/19/2011	Not Printed
R590-177	Life Insurance Illustrations Rule	34477	5YR	03/01/2011	2011-6/105
R590-178	Securities Custody	35108	5YR	08/03/2011	2011-17/97
R590-181	Yankee Bond Rule	35555	5YR	12/19/2011	Not Printed
R590-182	Risk Based Capital Instructions	35553	5YR	12/19/2011	Not Printed
R590-186	Bail Bond Surety Business	34259	AMD	02/10/2011	2010-24/47
R590-192	Unfair Accident and Health Income Replacement Claims Settlement Practices Rule	34769	AMD	06/30/2011	2011-10/61
R590-192	Unfair Accident and Health Claims Settlement Practices	35103	AMD	12/08/2011	2011-16/32
R590-192	Unfair Accident and Health Claims Settlement Practices	35103	CPR	12/08/2011	2011-21/146
R590-195	Rental Car Related Licensing Rule	35175	AMD	11/17/2011	2011-18/34
R590-200	Diabetes Treatment and Management	34485	5YR	03/01/2011	2011-6/106
R590-203	Health Grievance Review Process and Disability Claims	34768	AMD	06/30/2011	2011-10/66
R590-203	Health Grievance Review Process	35104	AMD	12/08/2011	2011-16/35
R590-203	Health Grievance Review Process	35104	CPR	12/08/2011	2011-21/147
R590-206	Privacy of Consumer Financial and Health Information Rule	34921	5YR	06/15/2011	2011-13/84
R590-207	Health Agent Commissions for Small Employer Groups	34892	AMD	08/02/2011	2011-12/54
R590-207	Health Agent Commissions for Small Employer Groups	35215	5YR	09/01/2011	2011-18/86
R590-208	Uniform Application for Certificates of Authority	34714	5YR	04/25/2011	2011-10/119
R590-210	Privacy of Consumer Information Exemption for Manufacturer Warranties and Service Contracts	35220	5YR	09/01/2011	2011-18/87
R590-212	Requirements for Interest Bearing Accounts Used by Title Insurance Agencies for Trust Fund Deposits	35480	5YR	11/23/2011	2011-24/95
R590-225	Submission of Property and Casualty Rate and Form Filings	35331	AMD	12/08/2011	2011-21/129
R590-235	Medicare Prescription Drug Plan	34713	5YR	04/25/2011	2011-10/120
R590-236	HIPAA Eligibility Following Receipt of a Certificate of Insurability or Denial by an Individual Carrier	35374	5YR	10/25/2011	2011-22/66
R590-237	Access to Health Care Providers in Rural Counties	35217	5YR	09/01/2011	2011-18/87
R590-244	Individual and Agency Licensing Requirements	35179	AMD	11/17/2011	2011-18/36
R590-246-4	Initial and Renewal Licensing Process	34709	AMD	06/27/2011	2011-10/70
R590-246-4	Initial and Renewal Licensing Process	34989	NSC	07/13/2011	Not Printed
R590-256-1	Authority	34875	NSC	06/23/2011	Not Printed
R590-259	Dependent Coverage to Age 26	34276	NEW	01/25/2011	2010-24/51
R590-259	Dependent Coverage to Age 26	34727	AMD	06/27/2011	2011-10/72
R590-259-9	Utah Alternative Mechanism Enrollment	35106	NSC	08/31/2011	Not Printed
R590-259-13	Severability	34410	NSC	02/24/2011	Not Printed
R590-260	Utah Defined Contribution Risk Adjuster Plan of Operation	34362	NEW	03/22/2011	2011-3/36
R590-261	Health Benefit Plan Adverse Benefit Determinations	34770	NEW	06/30/2011	2011-10/73
R590-261	Health Benefit Plan Adverse Benefit Determination	35105	AMD	12/08/2011	2011-16/38
R590-261	Health Benefit Plan Adverse Benefit Determinations	35105	CPR	12/08/2011	2011-21/149
R590-263	Commonly Selected Health Benefit Plans	35202	NEW	10/27/2011	2011-18/44
<u>Title and Escrow Commission</u>					
R592-3	Filing a Schedule of Minimum Charges for Escrow Services	34448	REP	04/11/2011	2011-5/32
R592-4	Standards for Minimum Charges for Escrow Services	34449	REP	04/11/2011	2011-5/34
R592-6-4	Unfair Methods of Competition, Acts and Practices	34510	AMD	08/09/2011	2011-7/9

RULES INDEX

R592-6-4	Unfair Methods of Competition, Acts and Practices	34510	CPR	08/09/2011	2011-13/74
R592-11	Title Insurance Producer Annual and Controlled Business Reports	34932	5YR	06/15/2011	2011-13/85
R592-15	Submission of a Schedule of Minimum Charges for Escrow Services	34447	NEW	04/11/2011	2011-5/36
JUDICIAL PERFORMANCE EVALUATION COMMISSION					
<u>Administration</u>					
R597-3	Judicial Performance Evaluations	35281	AMD	11/23/2011	2011-20/26
R597-3	Judicial Performance Evaluations	35482	NSC	12/21/2011	Not Printed
LABOR COMMISSION					
<u>Adjudication</u>					
R602-1	General Provisions	34728	AMD	06/22/2011	2011-10/77
R602-2-1	Pleadings and Discovery	34729	AMD	06/22/2011	2011-10/78
R602-2-4	Attorney Fees	35092	AMD	09/21/2011	2011-16/45
R602-2-4	Attorney Fees	35377	AMD	12/29/2011	2011-22/34
R602-4-4	Pleadings and Discovery	34732	AMD	06/22/2011	2011-10/82
R602-7	Adjudication of Discrimination Claims	34730	AMD	06/22/2011	2011-10/84
R602-8	Adjudication of Utah Occupational Safety and Health Citation Claims	34731	AMD	06/22/2011	2011-10/88
<u>Administration</u>					
R600-2	Business Hours	35125	EMR	09/06/2011	2011-17/87
R600-2	Business Hours	35126	AMD	10/11/2011	2011-17/54
R600-3	Definitions Applicable to Construction Licensees	35093	NEW	09/21/2011	2011-16/43
R600-3-1	Authority and Scope	35362	AMD	12/08/2011	2011-21/131
<u>Antidiscrimination and Labor, Antidiscrimination</u>					
R606-1	Antidiscrimination	35194	5YR	08/30/2011	2011-18/88
R606-2	Pre-Employment Inquiry Guide	35289	EXT	09/26/2011	2011-20/78
R606-2	Pre-Employment Inquiry Guide	35297	REP	11/21/2011	2011-20/30
<u>Antidiscrimination and Labor, Fair Housing</u>					
R608-1	Utah Fair Housing Rules	35314	5YR	10/05/2011	2011-21/161
R608-1-17	Assistance Animals	35094	AMD	11/21/2011	2011-16/47
R608-1-17	Assistance Animals	35094	CPR	11/21/2011	2011-20/62
<u>Antidiscrimination and Labor, Labor</u>					
R610-1	Minimum Wage, Clarify Tip Credit, and Enforcement	35312	5YR	10/05/2011	2011-21/161
R610-2	Employment of Minors	35311	5YR	10/05/2011	2011-21/162
R610-3	Filing, Investigation, and Resolution of Wage Claims	35313	5YR	10/05/2011	2011-21/162
<u>Boiler and Elevator Safety</u>					
R616-2	Boiler and Pressure Vessel Rules	35315	5YR	10/05/2011	2011-21/163
R616-2-3	Safety Codes and Rules for Boilers and Pressure Vessels	34958	AMD	08/22/2011	2011-14/72
R616-3	Elevator Rules	35316	5YR	10/05/2011	2011-21/163
<u>Industrial Accidents</u>					
R612-2-5	Regulation of Medical Practitioner Fees	35305	AMD	11/21/2011	2011-20/33
R612-4-2	Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund	35363	AMD	01/01/2012	2011-21/132
R612-12	Reporting Requirements for Workers' Compensation Coverage Waivers	34725	R&R	06/22/2011	2011-10/93
R612-12-2	Designation as Informal Proceedings	34294	NSC	01/06/2011	Not Printed
<u>Occupational Safety and Health</u>					
R614-1-4	Incorporation of Federal Standards	34260	AMD	01/27/2011	2010-24/54
R614-1-4	Incorporation of Federal Standards	35091	NSC	08/22/2011	Not Printed

LIEUTENANT GOVERNOR

Elections

R623-1-4 Registration/License Application Procedure 34784 AMD 07/11/2011 2011-11/70

MONEY MANAGEMENT COUNCIL

Administration

R628-10 Rating Requirements to be a Permitted Depository 34676 5YR 04/11/2011 2011-9/119
 R628-11 Maximum Amount of Uninsured Public Funds Allowed to Be Held by Any Qualified Depository 34208 AMD 01/12/2011 2010-22/102
 R628-13 Collateralization of Public Funds 35204 AMD 10/24/2011 2011-18/45

NATURAL RESOURCES

Forestry, Fire and State Lands

R652-2 Sovereign Land Management Objectives 34433 5YR 02/14/2011 2011-5/114
 R652-8 Adjudicative Proceedings 34432 5YR 02/14/2011 2011-5/115
 R652-9 Consistency Review 34434 5YR 02/14/2011 2011-5/115
 R652-41 Rights of Entry 34435 5YR 02/14/2011 2011-5/116
 R652-80 Land Exchanges 34436 5YR 02/14/2011 2011-5/116
 R652-122 County Cooperative Agreements with State for Fire Protection 34394 NEW 04/28/2011 2011-4/23
 R652-123 Exemptions to Wildland Fire Suppression Fund 34376 5YR 01/24/2011 2011-4/45
 R652-140 Utah Forest Practices Act 34313 AMD 02/07/2011 2011-1/30
 R652-150 Utah Bioprospecting Act 34763 NEW 06/21/2011 2011-10/95

Geological Survey

R638-1 Acceptance and Maintenance of Confidential Information 35294 5YR 09/26/2011 2011-20/72

Oil, Gas and Mining: Coal

R645-103-400 Utah Processes for Designating Areas Unsuitable for Coal Mining and Reclamation Operations 35019 NSC 08/04/2011 Not Printed
 R645-106 Exemption for Coal Extraction Incidental to the Extraction of Other Minerals 34550 5YR 04/04/2011 2011-9/119
 R645-301-400 Land Use and Air Quality 35020 NSC 08/04/2011 Not Printed

Oil, Gas and Mining: Non-Coal

R647-1-106 Definitions 35185 AMD 10/26/2011 2011-18/47
 R647-2 Exploration 34473 AMD 05/25/2011 2011-6/80
 R647-2-111 Surety 35184 AMD 10/26/2011 2011-18/50
 R647-3 Small Mining Operations 34474 AMD 05/25/2011 2011-6/82
 R647-3 Small Mining Operations 35186 AMD 10/26/2011 2011-18/51
 R647-4-101 Filing Requirements and Review Procedures 34475 AMD 05/25/2011 2011-6/83
 R647-4-118 Revisions 35187 AMD 10/26/2011 2011-18/53

Oil, Gas and Mining: Oil and Gas

R649-10 Administrative Procedures 34551 5YR 04/04/2011 2011-9/120

Parks and Recreation

R651-201 Definitions 34382 5YR 01/26/2011 2011-4/39
 R651-201-6 Tow(ed)(ing) 34864 AMD 07/27/2011 2011-12/56
 R651-202 Boating Advisory Council 34383 5YR 01/26/2011 2011-4/39
 R651-203 Waterway Marking System 34384 5YR 01/26/2011 2011-4/40
 R651-204 Regulating Waterway Markers 34385 5YR 01/26/2011 2011-4/40
 R651-205 Zoned Waters 34386 5YR 01/26/2011 2011-4/41
 R651-206 Carrying Passengers for Hire 34353 5YR 01/11/2011 2011-3/57
 R651-206-2 Outfitting Company Responsibilities 34865 AMD 07/27/2011 2011-12/57
 R651-207 Registration Fee 34388 5YR 01/26/2011 2011-4/42
 R651-208 Backing Plates 34389 5YR 01/26/2011 2011-4/42
 R651-209 Anchored and Beached Vessels 35361 NEW 12/09/2011 2011-21/133
 R651-209 Anchored and Beached Vessels 35456 NSC 12/21/2011 Not Printed
 R651-210 Change of Address 34391 5YR 01/26/2011 2011-4/43
 R651-211 Assigned Numbers 34392 5YR 01/26/2011 2011-4/43

RULES INDEX

R651-212	Display of Yearly Registration Decals and Month of Expiration Decals	34393	5YR	01/26/2011	2011-4/44
R651-213	Dealer Numbers and Registrations	34417	5YR	02/10/2011	2011-5/108
R651-214	Temporary Registration	34418	5YR	02/10/2011	2011-5/109
R651-215	Personal Flotation Devices	34355	5YR	01/11/2011	2011-3/57
R651-215	Personal Flotation Devices	34511	AMD	05/09/2011	2011-7/11
R651-216	Navigation Lights - Note: Figures 1 through 7 mentioned below are on file with the Utah Division of Parks and Recreation	34419	5YR	02/10/2011	2011-5/109
R651-216-2	Navigation Lights On Motorboats 40 Feet To Less than 65 Feet	34512	AMD	05/09/2011	2011-7/12
R651-217	Fire Extinguishers	34420	5YR	02/10/2011	2011-5/110
R651-217-2	Fire Extinguishers Required	34513	AMD	05/09/2011	2011-7/13
R651-218	Carburetor Backfire Flame Control	34421	5YR	02/10/2011	2011-5/110
R651-219	Additional Safety Equipment	34422	5YR	02/10/2011	2011-5/111
R651-219	Additional Safety Equipment	34514	AMD	05/09/2011	2011-7/14
R651-220	Registration and Numbering Exemptions	34423	5YR	02/10/2011	2011-5/111
R651-221	Boat Liveries - Boat Rental Companies	34424	5YR	02/10/2011	2011-5/112
R651-221	Boat Liveries - Boat Rental Companies	34515	AMD	05/09/2011	2011-7/15
R651-222	Muffling Requirements	34356	5YR	01/11/2011	2011-3/58
R651-224	Towed Devices	34357	5YR	01/11/2011	2011-3/59
R651-224-3	Flag Required	34866	AMD	07/27/2011	2011-12/59
R651-226	Regattas and Races	34425	5YR	02/10/2011	2011-5/112
R651-401	Off-Highway Vehicle and Registration Stickers	34531	5YR	03/28/2011	2011-8/36
R651-401-2	Display of OHV Registration Numbers	34416	AMD	04/07/2011	2011-5/39
R651-405	Off-Highway Implement of Husbandry Sticker Fee	34532	5YR	03/28/2011	2011-8/37
R651-406	Off-Highway Vehicle Registration Fees	34533	5YR	03/28/2011	2011-8/37
R651-601-15	Special Use Permit	34446	AMD	04/07/2011	2011-5/40
R651-606-5	Time-Limit in Campsite may not be Exceeded	34889	AMD	07/27/2011	2011-12/60
R651-608-1	Permit Requirements	34507	AMD	05/09/2011	2011-7/17
R651-611	Fee Schedule	34377	5YR	01/24/2011	2011-4/44
R651-611	Fee Schedule	34364	AMD	04/07/2011	2011-3/37
R651-611	Fee Schedule	34380	NSC	04/11/2011	Not Printed
R651-611-3	Camping Fees	34890	AMD	07/27/2011	2011-12/61
R651-637	2011 Antelope Island State Park Special Mule Deer and Bighorn Sheep Hunt	35330	AMD	12/09/2011	2011-21/134
R651-801	Swimming Prohibited	34426	5YR	02/10/2011	2011-5/113
R651-802	Scuba Diving	34427	5YR	02/10/2011	2011-5/113
<u>Water Rights</u>					
R655-4	Water Well Drillers	34413	R&R	04/11/2011	2011-5/41
R655-4	Water Well Drillers	34541	NSC	04/12/2011	Not Printed
R655-10	Dam Safety Classifications, Approval Procedures and Independent Reviews	34690	5YR	04/14/2011	2011-9/121
R655-10	Dam Safety Classifications, Approval Procedures and Independent Reviews	34961	AMD	09/12/2011	2011-14/74
R655-11	Requirements for the Design, Construction and Abandonment of Dams	34691	5YR	04/14/2011	2011-9/121
R655-11	Requirement for the Design, Construction and Abandonment of Dams	34960	AMD	09/12/2011	2011-14/76
R655-12	Requirements for Operational Dams	34692	5YR	04/14/2011	2011-9/122
R655-12	Requirements for Operational Dams	34959	AMD	09/12/2011	2011-14/78
<u>Wildlife Resources</u>					
R657-5	Taking Big Game	34341	AMD	03/14/2011	2011-3/39
R657-5	Taking Big Game	34807	AMD	07/11/2011	2011-11/71
R657-6	Taking Upland Game	35068	AMD	09/12/2011	2011-15/100
R657-9	Taking Waterfowl, Common Snipe and Coot	35171	5YR	08/16/2011	2011-18/88
R657-9	Taking Waterfowl, Common Snipe and Coot	35213	AMD	10/24/2011	2011-18/54
R657-10	Taking Cougar	35172	5YR	08/16/2011	2011-18/89
R657-10	Taking Cougar	35208	AMD	10/24/2011	2011-18/56
R657-11	Taking Furbearers	35212	AMD	10/24/2011	2011-18/60
R657-12	Hunting and Fishing Accommodations for People with Disabilities	34981	AMD	08/23/2011	2011-14/80
R657-13	Taking Fish and Crayfish	34167	AMD	01/04/2011	2010-22/103
R657-20	Falconry	35519	5YR	12/12/2011	2012-1/72

R657-26	Adjudicative Proceedings for a License, Permit, or Certificate of Registration	35173	5YR	08/16/2011	2011-18/89
R657-33	Taking Bear	34367	AMD	04/04/2011	2011-4/26
R657-44	Big Game Depredation	34299	AMD	02/07/2011	2011-1/32
R657-48	Wildlife Species of Concern and Habitat Designation Advisory Committee	34806	5YR	05/12/2011	2011-11/133
R657-54	Taking Wild Turkey	35067	AMD	09/12/2011	2011-15/103
R657-55	Wildlife Convention Permits	34303	AMD	02/07/2011	2011-1/35
R657-56	Recreational Lease of Private Lands for Free Public Walk-in Access	35214	AMD	10/24/2011	2011-18/74
R657-58	Fishing Contests and Clinics	34168	AMD	01/04/2011	2010-22/105
R657-58	Fishing Contests and Clinics	34379	AMD	04/04/2011	2011-4/29
R657-63	Self Defense Against Wild Animals	34354	NEW	03/14/2011	2011-3/49

PARDONS (BOARD OF)

Administration

R671-102	Americans with Disabilities Act Complaint Procedures Rule	34867	AMD	07/26/2011	2011-12/62
----------	---	-------	-----	------------	------------

PUBLIC EDUCATION JOB ENHANCEMENT PROGRAM

Job Enhancement Committee

R690-100	Public Education Job Enhancement Program Participant Eligibility and Requirements	35532	5YR	12/14/2011	2012-1/72
----------	---	-------	-----	------------	-----------

PUBLIC LANDS POLICY COORDINATING OFFICE

Administration

R694-1	Archeological Permits	34977	EXT	06/23/2011	2011-14/143
--------	-----------------------	-------	-----	------------	-------------

PUBLIC SAFETY

Administration

R698-1	Public Petitions for Declaratory Orders	35547	5YR	12/16/2011	Not Printed
R698-2	Government Records Access and Management Act Rule	35548	5YR	12/16/2011	Not Printed
R698-3	Americans With Disabilities Act (ADA) Complaint Procedure	35549	5YR	12/16/2011	Not Printed
R698-5	Hazardous Chemical Emergency Response Commission	35295	AMD	11/21/2011	2011-20/34

Criminal Investigations and Technical Services, 911 Committee (Utah)

R720-1	Utah 911 Committee Rule	34501	NEW	05/11/2011	2011-7/22
--------	-------------------------	-------	-----	------------	-----------

Criminal Investigations and Technical Services, Criminal Identification

R722-300	Concealed Firearm Permit and Instructor Rule	34800	EMR	05/10/2011	2011-11/113
R722-300	Concealed Firearm Permit and Instructor Rule	34679	AMD	06/07/2011	2011-9/98
R722-300-3	Definitions	34222	AMD	01/07/2011	2010-23/61
R722-310-8	Renewal of a License	34705	NSC	05/25/2011	Not Printed
R722-330	Licensing of Private Investigators	34799	EMR	05/10/2011	2011-11/118
R722-330	Licensing of Private Investigators	35139	R&R	10/12/2011	2011-17/54
R722-350	Certificate of Eligibility	34324	NEW	02/22/2011	2011-2/40

Driver License

R708-16	Pedestrian Vehicle Rule	34398	5YR	01/31/2011	2011-4/46
R708-18	Regulatory and Administrative Fees	34399	5YR	01/31/2011	2011-4/46
R708-19	Automobile No-Fault Self-Insurance	34400	5YR	01/31/2011	2011-4/47
R708-20	Motor Vehicle Accident Prevention Course Standards	34401	5YR	01/31/2011	2011-4/47
R708-33	Electric Assisted Bicycle Headgear	34402	5YR	01/31/2011	2011-4/48
R708-38	Anatomical Gift	34403	5YR	01/31/2011	2011-4/48
R708-38	Anatomical Gift	34404	NSC	02/14/2011	Not Printed
R708-41-3	Definitions	34724	AMD	07/06/2011	2011-10/97
R708-41-3	Definitions	34805	AMD	07/12/2011	2011-11/82
R708-42	Driver Address Record	34371	5YR	01/20/2011	2011-4/49
R708-43	YES or NO Notification	34372	5YR	01/20/2011	2011-4/49

RULES INDEX

R708-44	Citation Monitoring Service	34374	5YR	01/20/2011	2011-4/50
R708-44	Citation Monitoring Service	34373	NSC	02/14/2011	Not Printed
R708-46	Refugee or Approved Asylee Knowledge Test in Applicant's Native Language	34804	NEW	07/12/2011	2011-11/85
<u>Fire Marshal</u>					
R710-2	Rules Pursuant to the Utah Fireworks Act	34247	AMD	01/21/2011	2010-24/57
R710-2	Rules Pursuant to the Utah Fireworks Act	34835	EMR	05/17/2011	2011-11/109
R710-2	Rules Pursuant to the Utah Fireworks Act	34809	AMD	07/08/2011	2011-11/86
R710-6	Liquefied Petroleum Gas Rules	34520	5YR	03/16/2011	2011-8/38
R710-6	Liquefied Petroleum Gas Rules	35401	AMD	12/24/2011	2011-22/36
R710-6-4	LP Gas Certificates	34487	AMD	04/21/2011	2011-6/84
R710-8-3	Amendments and Additions	34837	AMD	07/08/2011	2011-11/90
R710-9	Rules Pursuant to the Utah Fire Prevention Law	34242	AMD	01/09/2011	2010-23/58
R710-9	Rules Pursuant to the Utah Fire Prevention Law	34836	AMD	07/08/2011	2011-11/92
R710-9	Rules Pursuant to the Utah Fire Prevention and Safety Act	35296	AMD	11/21/2011	2011-20/37
R710-10	Rules Pursuant to Fire Service Training, Education, and Certification	34495	EXD	03/07/2011	2011-7/51
R710-10	Rules Pursuant to Fire Service Training, Education, and Certification	34505	EMR	03/14/2011	2011-7/37
R710-10	Rules Pursuant to Fire Service Training, Education, and Certification	34502	NEW	05/11/2011	2011-7/18
R710-11	Fire Alarm System Inspecting and Testing	35320	5YR	10/11/2011	2011-21/164
<u>Highway Patrol</u>					
R714-160	Equipment Standards for Passenger Vehicle and Light Truck Safety Inspections	34285	NEW	02/09/2011	2011-1/37
R714-161	Equipment Standards for Motorcycle and ATV Safety Inspections	34286	NEW	02/09/2011	2011-1/53
R714-162	Equipment Standards for Heavy Truck, Trailer and Bus Safety Inspections	34287	NEW	02/08/2011	2011-1/59
R714-600	Performance Standards for Tow-Truck Motor Carriers	34255	R&R	01/24/2011	2010-24/61
R714-600	Performance Standards for Tow Truck Motor Carriers	34895	AMD	08/01/2011	2011-12/66
<u>Peace Officer Standards and Training</u>					
R728-101	Public Petitions For Declaratory Rulings	35521	5YR	12/13/2011	2012-1/73
R728-401	Requirements for Approval and Certification of Peace Officer Basic Training Programs and Applicants	35522	5YR	12/13/2011	2012-1/74
R728-402	Application Procedures to Attend a Basic Peace Officer Training Program	35523	5YR	12/13/2011	2012-1/74
R728-403	Qualifications For Admission To Certified Peace Officer Training Academies	35524	5YR	12/13/2011	2012-1/75
R728-404	Basic Training Basic Academy Rules	35525	5YR	12/13/2011	2012-1/75
R728-405	Drug Testing Requirement	35560	5YR	12/21/2011	Not Printed
R728-406	Requirements For Approval and Certification of Basic Correctional, Reserve and Special Function Training Programs and Applicants	35561	5YR	12/21/2011	Not Printed
R728-407	Waiver/Reactivation Process	35562	5YR	12/21/2011	Not Printed
R728-408	POST Academy and the Emergency Vehicle Operations Range are Secure Facilities	35321	EXT	10/11/2011	2011-21/167
R728-408	POST Academy and the Emergency Vehicle Operations Range are Secure Facilities	35567	5YR	12/21/2011	Not Printed
R728-409	Suspension or Revocation of Peace Officer Certification	35563	5YR	12/21/2011	Not Printed
R728-410	Guidelines Regarding Failure To Obtain Annual Statutory Training	35564	5YR	12/21/2011	Not Printed
R728-500	Utah Peace Officer Standards and Training In-Service Training Certification Procedures	35565	5YR	12/21/2011	Not Printed

PUBLIC SERVICE COMMISSION

Administration

R746-343-15	Surcharge	34760	AMD	08/01/2011	2011-10/100
R746-360-4	Application of Fund Surcharges to Customer Billings	34979	AMD	09/01/2011	2011-14/81
R746-360-8	Calculation of Fund Distributions in Rate-of-Return Incumbent Telephone Corporation Territories	34176	AMD	01/19/2011	2010-22/109
R746-409	Pipeline Safety	35317	5YR	10/06/2011	2011-21/164
R746-409-1	General Provisions	35236	AMD	11/07/2011	2011-19/51

REGENTS (BOARD OF)

Administration

R765-604	New Century Scholarship	34734	AMD	06/22/2011	2011-10/101
R765-604	New Century Scholarship	34905	NSC	06/30/2011	Not Printed
R765-608	Utah Engineering and Computer Science Loan Forgiveness Program	34441	AMD	04/11/2011	2011-5/93
R765-608	Utah Engineering and Computer Science Scholarship Program	34980	5YR	06/28/2011	2011-14/141
R765-609	Regents' Scholarship	34798	AMD	07/11/2011	2011-11/94
R765-612	Lender Participation	34721	REP	06/30/2011	2011-10/106
R765-649	Utah Higher Education Assistance Authority (UHEAA) Privacy Policy	34530	5YR	03/25/2011	2011-8/39

University of Utah, Administration

R805-2	Government Records Access and Management Act Procedures	34387	AMD	03/24/2011	2011-4/31
R805-5	Enforcement of No Smoking Areas at University of Utah Hospitals and Clinics	34808	NEW	08/09/2011	2011-11/99
R805-5	Enforcement of No Smoking Areas at University of Utah Hospitals and Clinics	34808	CPR	08/09/2011	2011-13/76

SCHOOL AND INSTITUTIONAL TRUST LANDS

Administration

R850-8	Adjudicative Proceedings	35366	5YR	10/18/2011	2011-22/66
R850-8	Adjudicative Proceedings	35400	AMD	12/22/2011	2011-22/38
R850-10	Expedited Rulemaking	34289	NSC	01/06/2011	Not Printed
R850-41	Rights of Entry	35528	EXD	12/13/2011	2012-1/77
R850-41	Rights of Entry	35541	EMR	12/14/2011	2012-1/67
R850-60	Cultural Resources	34261	AMD	01/24/2011	2010-24/64
R850-60-100	Authorities	34328	NSC	01/18/2011	Not Printed
R850-140	Development Property	35233	5YR	09/14/2011	2011-19/67

TAX COMMISSION

Administration

R861-1A-3	Division Conferences Pursuant to Utah Code Ann. Sections 59-1-210 and 63G-4-102	34718	NSC	05/25/2011	Not Printed
R861-1A-13	Requests for Accommodation and Grievance Procedures Pursuant to Utah Code Ann. Section 63G-3-201, 28 CFR 35.107 1992 edition, and 42 USC 12201	34758	NSC	05/25/2011	Not Printed
R861-1A-24	Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-502.5, 63G-4-206, and 63G-4-208	35182	AMD	12/08/2011	2011-18/78
R861-1A-29	Decisions, Orders, and Reconsideration Pursuant to Utah Code Ann. Section 63G-4-302	34753	AMD	06/23/2011	2011-10/107
R861-1A-43	Electronic Meetings Pursuant to Utah Code Ann. Section 52-4-207	34326	AMD	02/23/2011	2011-2/42
R861-1A-43	Electronic Meetings Pursuant to Utah Code Ann. Section 52-4-207	34687	AMD	06/23/2011	2011-9/102

RULES INDEX

R861-1A-45	Procedures for Commission Meetings Not Open to the Public Pursuant to Utah Code Ann. Section 59-1-405	34754	AMD	06/23/2011	2011-10/108
Auditing					
R865-3C-1	Allocation of Net Income Pursuant to Utah Code Ann. Section 59-7-204	35142	AMD	10/13/2011	2011-17/58
R865-4D-3	User-Dealer's License Pursuant to Utah Code Ann. Section 59-13-302	34870	AMD	08/11/2011	2011-12/68
R865-4D-19	Refund of Special Fuel Taxes Paid by Government Entities Pursuant to Utah Code Ann. Section 59-13-301	34964	AMD	08/25/2011	2011-14/82
R865-4D-24	Special Fuel Tax License Pursuant to Utah Code Ann. Section 59-13-302	35380	AMD	12/22/2011	2011-22/41
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	35381	AMD	12/22/2011	2011-22/42
R865-6F-14	Extent to Which Federal Income Tax Provisions Are Followed for Corporation Franchise Tax Purposes Pursuant to Utah Code Ann. Sections 59-7-106, 59-7-108, 59-7-501, and 59-7-502	35144	AMD	10/13/2011	2011-17/59
R865-6F-23	Utah Steam Coal Tax Credit Pursuant to Utah Code Ann. Section 59-7-604	34871	AMD	08/11/2011	2011-12/69
R865-6F-28	Enterprise Zone Corporate Franchise Tax Credits Pursuant to Utah Code Ann. Sections 63M-1-401 through 63M-1-416	35382	AMD	12/22/2011	2011-22/50
R865-6F-40	Foreign Operating Company Subtraction from Unadjusted Income Pursuant to Utah Code Ann. Sections 59-7-101 and 59-7-106	34755	AMD	06/23/2011	2011-10/109
R865-7H-1	Environmental Assurance Fee for Retailers or Consumers Not Participating in the Environmental Assurance Program Pursuant to Utah Code Ann. Section 19-6-410.5	34967	AMD	08/25/2011	2011-14/83
R865-7H-2	Environmental Assurance Fee on Packaged Petroleum Products Pursuant to Utah Code Ann. Section 19-6-410.5	34968	AMD	08/25/2011	2011-14/84
R865-7H-3	Environmental Assurance Fee on Exports of Petroleum Products Pursuant to Utah Code Ann. Section 19-6-410.5	34969	AMD	08/25/2011	2011-14/85
R865-9I-2	Determination of Utah Resident Individual Status Pursuant to Utah Code Ann. Section 59-10-103	35384	AMD	12/22/2011	2011-22/52
R865-9I-18	Taxpayer Records, Statements, and Special Returns Pursuant to Utah Code Ann. Section 59-10-501	35385	AMD	12/22/2011	2011-22/53
R865-9I-37	Enterprise Zone Individual Income Tax Credits Pursuant to Utah Code Ann. Sections 63M-1-401 through 63M-1-414	35386	AMD	12/22/2011	2011-22/54
R865-11Q	Sales and Use Tax	34535	NSC	04/12/2011	Not Printed
R865-12L-16	Notification to Tax Commission Upon Change in the Election to Collect County or Municipality Imposed Transient Room Taxes Pursuant to Utah Code Ann. Sections 59-12-301 and 59-12-355	35145	AMD	10/13/2011	2011-17/60
R865-13G-10	Exemption For Purchase of Motor Fuels by State and Local Government Agencies Pursuant to Utah Code Ann. Section 59-13-201	35146	AMD	10/13/2011	2011-17/61
R865-13G-13	Refund of Motor Fuel Taxes Paid Pursuant to Utah Code Ann. Section 59-13-201	34965	AMD	08/25/2011	2011-14/86
R865-13G-15	Reduction in Motor Fuel Tax for Distributors Subject to Navajo Nation Fuel Tax Pursuant to Utah Code Ann. Section 59-13-201	34966	AMD	08/25/2011	2011-14/87
R865-13G-16	Aviation Fuel Tax Refund or Credit Pursuant to Utah Code Ann. Section 59-13-404	34872	AMD	08/11/2011	2011-12/70

R865-13G-17	Motor Fuel Tax License Pursuant to Utah Code Ann. Section 59-13-203.1	35383	AMD	12/22/2011	2011-22/56
R865-14W-1	Mineral Production Tax Withholding Pursuant to Utah Code Ann. Sections 59-6-101 through 59-6-104	34970	AMD	08/25/2011	2011-14/88
R865-15O-1	Oil and Gas Severance Tax Pursuant to Utah Code Ann. Sections 59-5-102 and 59-5-104	35147	AMD	10/13/2011	2011-17/62
R865-19S-42	Sales to The State of Utah and Its Subdivisions Pursuant to Utah Code Ann. Section 59-12-104	34882	AMD	08/11/2011	2011-12/71
R865-19S-78	Charges for Labor and Repair Under an Extended Warranty Agreement Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104	34268	AMD	01/27/2011	2010-24/68
R865-19S-78	Service Plan Charges for Labor and Repair Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104	34688	NSC	04/27/2011	Not Printed
R865-19S-92	Computer Software and Other Related Transactions Pursuant to Utah Code Ann. Section 59-12-103	34756	AMD	06/23/2011	2011-10/110
R865-19S-103	Municipal Energy Sales and Use Tax Pursuant to Utah Code Ann. Sections 10-1-303, 10-1-306, and 10-1-307	34757	AMD	06/23/2011	2011-10/112
R865-20T-5	Bonding Requirements For Tobacco-Products Dealers Pursuant to Utah Code Ann. Section 59-14-301	34873	AMD	08/11/2011	2011-12/72
R865-20T-6	Purchase of Cigarette Stamps Pursuant to Utah Code Ann. Section 59-14-206	34876	AMD	08/11/2011	2011-12/74
R865-20T-13	Calculation of Tax on Moist Snuff Pursuant to Utah Code Ann. Section 59-14-302	34869	AMD	08/11/2011	2011-12/75
<u>Collections</u>					
R867-2B-1	Collection of Penalty Pursuant to Utah Code Ann. Section 59-1-302	35148	AMD	10/13/2011	2011-17/63
<u>Motor Vehicle</u>					
R873-22M-27	Issuance of Special Group License Plates Pursuant to Utah Code Ann. Sections 41-1a-418, 41-1a-419, 41-1a-420, and 41-1a-421	34686	AMD	06/23/2011	2011-9/103
R873-22M-31	Determination of Special Interest Vehicle Pursuant to Utah Code Ann. Section 41-1a-102	34877	AMD	08/11/2011	2011-12/76
R873-22M-37	Standard Issue License Plates Pursuant to Utah Code Ann. Sections 41-1a-402 and 41-1a-1211	34878	AMD	08/11/2011	2011-12/77
<u>Property Tax</u>					
R884-24P-8	Security for Property Tax on Uranium and Vanadium Mines Pursuant to Utah Code Ann. Section 59-2-211	34879	AMD	08/11/2011	2011-12/78
R884-24P-14	Valuation of Real Property Encumbered by Preservation Easements Pursuant to Utah Code Ann. Section 59-2-303	34880	AMD	08/11/2011	2011-12/79
R884-24P-17	Reappraisal of Real Property by County Assessors Pursuant to Utah Constitution, Article XIII, Subsection 11, and Utah Code Ann. Sections 59-2-303, 59-2-302, and 59-2-704	34971	AMD	08/25/2011	2011-14/90
R884-24P-28	Reporting Requirements For Leased or Rented Personal Property, Pursuant to Utah Code Ann. Section 59-2-306	35149	AMD	10/13/2011	2011-17/64
R884-24P-33	2011 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301	35150	AMD	10/13/2011	2011-17/65
R884-24P-34	Use of Sales or Appraisal Information Gathered in Conjunction With Assessment/Sales Ratio Studies Pursuant to Utah Code Ann. Section 59-2-704	34972	AMD	08/25/2011	2011-14/91

RULES INDEX

R884-24P-35	Annual Statement for Certain Exempt Uses of Property Pursuant to Utah Code Ann. Section 59-2-1102	34883	NSC	06/14/2011	Not Printed
R884-24P-41	Adjustment or Deferral of Property Taxes Pursuant to Utah Code Ann. Section 59-2-1347	34881	AMD	08/11/2011	2011-12/80
R884-24P-42	Farmland Assessment Audits and Personal Property Audits Pursuant to Utah Code Ann. Subsection 59-2-508(2), and Section 59-2-705	35151	AMD	10/13/2011	2011-17/74
R884-24P-53	2011 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515	35332	AMD	12/08/2011	2011-21/136
R884-24P-57	Judgment Levies Pursuant to Utah Code Ann. Sections 59-2-918.5, 59-2-924, 59-2-1328, and 59-2-1330	35152	AMD	10/27/2011	2011-17/75
R884-24P-64	Determination and Application of Taxable Value for Purposes of the Property Tax Exemptions for Disabled Veterans and the Blind Pursuant to Utah Code Ann. Sections 59-2-1104 and 59-2-1106	34759	NSC	05/25/2011	Not Printed
R884-24P-71	Agreements with Commercial or Industrial Taxpayers for Equal Property Tax Payments Pursuant to Utah Code Ann. Section 59-2-1308.5	35183	AMD	10/27/2011	2011-18/79
R884-24P-72	State Farmland Evaluation Advisory Committee Procedures Pursuant to Utah Code Ann. Section 59-2-514	34973	AMD	08/29/2011	2011-14/92

TECHNOLOGY SERVICES

Administration

R895-1	Access to Records	34438	5YR	02/15/2011	2011-5/117
R895-2	Americans With Disabilities Act (ADA) Complaint Procedure	34439	5YR	02/15/2011	2011-5/117
R895-2	Americans with Disabilities Act (ADA) Complaint Procedure	34681	AMD	06/08/2011	2011-9/105
R895-5	Acquisition of Information Technology	34722	5YR	04/27/2011	2011-10/120
R895-8	State Privacy Policy and Agency Privacy Policies	34723	5YR	04/27/2011	2011-10/121
R895-11	Technology Services Adjudicative Proceedings	34440	5YR	02/15/2011	2011-5/118

TRANSPORTATION

Administration

R907-1	Appeal of Departmental Actions	35140	5YR	08/11/2011	2011-17/97
R907-1	Appeal of Departmental Actions	35141	NSC	08/31/2011	Not Printed
R907-3	Administrative Procedure	35325	5YR	10/12/2011	2011-21/165
R907-60	Handling of Publications Prepared by the Utah Department of Transportation Either for Sale or Free Copy	35421	5YR	11/14/2011	2011-23/107
R907-62	Americans with Disabilities Act	35258	5YR	09/19/2011	2011-20/73
R907-63	Structure Repair and Loss Recovery Procedure	35138	5YR	08/11/2011	2011-17/98
R907-66	Incorporation and Use of Federal Acquisition Regulations on Federal-Aid and State-Financed Transportation Projects	35323	5YR	10/12/2011	2011-21/165
R907-66	Incorporation and Use of Federal Acquisition Regulations on Federal-Aid and State-Financed Transportation Projects	35324	AMD	12/08/2011	2011-21/140

Motor Carrier

R909-1	Safety Regulations for Motor Carriers	35391	5YR	11/01/2011	2011-22/67
R909-2	Utah Trucking Guide	35262	AMD	11/21/2011	2011-20/39
R909-3	Standards for Utah School Buses	34956	R&R	08/25/2011	2011-14/93
R909-16	Overall Motor Carrier Safety Standing	35392	EXT	11/01/2011	2011-22/71
R909-17	Appeal Process for Utah Commercial Vehicle Safety Alliance Inspections	35393	EXT	11/01/2011	2011-22/71

R909-19	Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification	35255	5YR	09/19/2011	2011-20/73
R909-75	Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes	35394	5YR	11/01/2011	2011-22/68
<u>Motor Carrier, Ports of Entry</u>					
R912-2	Mobile and Manufactured Homes	35263	REP	11/21/2011	2011-20/46
R912-8	Minimum Tire, Axle and Suspension Ratings for Heavy Vehicles and the Use of Retractable or Variable Load Suspension Axles in Utah	34453	5YR	02/17/2011	2011-6/107
R912-8	Minimum Tire, Axle and Suspension Ratings for Heavy Vehicles and the Use of Retractable or Variable Load Suspension Axles in Utah	34454	NSC	03/10/2011	Not Printed
R912-9	Pilot/Escort Requirements and Certification Program	35265	REP	11/21/2011	2011-20/49
R912-14	Changes in Utah's Oversized/Overweight Permit Program - Semitrailer Exceeding 48 Feet Length	35266	REP	11/21/2011	2011-20/52
R912-76	Single Tire Configuration	35264	REP	11/21/2011	2011-20/53
<u>Operations, Aeronautics</u>					
R914-1	Rules and Regulations of the Utah State Aeronautical Committee	35326	AMD	12/08/2011	2011-21/142
R914-2	Safety Rules and Procedures for Aircraft Operations on Roads	35328	NSC	10/31/2011	Not Printed
<u>Operations, Construction</u>					
R916-1	Advertising and Awarding Construction Contracts	35129	5YR	08/11/2011	2011-17/98
R916-1	Advertising and Awarding Construction Contracts	35130	AMD	10/11/2011	2011-17/76
R916-2	Prequalification of Contractors	35131	5YR	08/11/2011	2011-17/99
R916-2	Prequalification of Contractors	35132	AMD	10/11/2011	2011-17/78
R916-3	DESIGN-BUILD Contracts	35133	5YR	08/11/2011	2011-17/99
R916-4	Construction Manager/General Contractor Contracts	35135	AMD	10/11/2011	2011-17/80
R916-5	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	35136	AMD	10/11/2011	2011-17/81
<u>Operations, Maintenance</u>					
R918-5	Construction or Improvement of Highway	34693	NEW	06/07/2011	2011-9/107
<u>Operations, Traffic and Safety</u>					
R920-6	Snow Tire and Chain Requirements	35277	AMD	11/21/2011	2011-20/54
R920-6	Snow Tire and Chain Requirements	35493	NSC	12/21/2011	Not Printed
R920-50	Ropeway Operation Safety Rules	34241	AMD	01/10/2011	2010-23/63
<u>Preconstruction</u>					
R930-1	Installation of New Mailboxes and Correction of Nonconforming Mailboxes	35397	5YR	11/01/2011	2011-22/69
R930-2	Public Hearings	35422	5YR	11/14/2011	2011-23/108
R930-3	Highway Noise Abatement	35398	5YR	11/01/2011	2011-22/70
R930-5	Establishment and Regulation of At-Grade Railroad Crossings	35420	5YR	11/14/2011	2011-23/108
R930-5-13	Notice of Intended Action	34415	EMR	02/09/2011	2011-5/105
R930-5-13	Notice on Intended Action	34452	AMD	04/21/2011	2011-6/90
R930-6	Manual of Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of-Way	35423	5YR	11/14/2011	2011-23/109
<u>Preconstruction, Right-of-Way Acquisition</u>					
R933-1	Right of Way Acquisition	34363	AMD	03/10/2011	2011-3/51
R933-1	Right of Way Acquisition	35399	5YR	11/01/2011	2011-22/70
R933-2	Control of Outdoor Advertising Signs	35424	5YR	11/14/2011	2011-23/109

RULES INDEX

R933-3	Relocation or Modification of Existing Authorized Access Openings or Granting New Access Openings on Limited Access Highways	35419	5YR	11/14/2011	2011-23/110
<u>Program Development</u>					
R926-2	Evaluation of Proposed Additions to or Deletions from the State Highway System	35257	5YR	09/19/2011	2011-20/74
R926-3	Class B and Class C Road Funds	35259	5YR	09/19/2011	2011-20/74
R926-3	Class B and Class C Road Funds	35260	AMD	11/21/2011	2011-20/56
R926-5	State Park Access Highways Improvement Program	35395	5YR	11/01/2011	2011-22/68
R926-6	Transportation Corridor Preservation Revolving Loan Fund	34451	AMD	04/21/2011	2011-6/87
R926-6	Transportation Corridor Preservation Revolving Loan Fund	35396	5YR	11/01/2011	2011-22/69
R926-9	Establishment Designation and Operation of Tollways	34459	5YR	02/24/2011	2011-6/107
R926-9	Establishment Designation and Operation of Tollways	34460	AMD	04/21/2011	2011-6/89
R926-11	Rules for Permitting of Eligible Vehicles for a Clean Fuel Special Group License Plate On or After January 1, 2009	34765	AMD	06/21/2011	2011-10/113
R926-14	Utah Scenic Byway Program Administration; Scenic Byways Designation, De-designation, and Segmentation Processes	34955	AMD	08/22/2011	2011-14/113
R926-15	Designated Scenic Backways	34954	NEW	08/22/2011	2011-14/118
TRANSPORTATION COMMISSION					
<u>Administration</u>					
R940-1	Establishment of Toll Rates	34461	5YR	02/24/2011	2011-6/108
R940-1	Establishment of Toll Rates	34462	AMD	04/21/2011	2011-6/91
R940-5	Approval of Highway Facilities on Sovereign Lands	34810	NEW	09/15/2011	2011-11/100
VETERANS' AFFAIRS					
<u>Administration</u>					
R978-1	Rule Governing Veterans' Affairs	35261	NEW	12/10/2011	2011-20/57
WORKFORCE SERVICES					
<u>Administration</u>					
R982-301	Councils	34934	AMD	08/18/2011	2011-13/68
<u>Employment Development</u>					
R986-100	Employment Support Programs	34933	AMD	09/07/2011	2011-13/69
R986-100-113	A Client Must Inform the Department of All Material Changes	34516	AMD	06/15/2011	2011-7/24
R986-100-122	Advance Notice of Department Action	34444	AMD	04/11/2011	2011-5/96
R986-100-134	Payments of Assistance Pending the Hearing	35002	AMD	09/01/2011	2011-14/121
R986-200	Family Employment Program	35402	AMD	12/29/2011	2011-22/57
R986-200-205	How to Determine Who Is Included in the Household Assistance Unit	34677	AMD	06/15/2011	2011-9/108
R986-200-215	Family Employment Program Two Parent Household (FEPTP)	34546	AMD	06/15/2011	2011-8/26
R986-200-215	Family Employment Program Two Parent Household (FEPTP)	35081	AMD	09/07/2011	2011-15/105
R986-200-218	Exceptions to the Time Limit	35109	AMD	10/11/2011	2011-17/84
R986-200-246	Transitional Cash Assistance	34239	AMD	01/13/2011	2010-23/70
R986-200-247	Utah Back to Work Pilot Program (BWP)	34547	NSC	04/12/2011	Not Printed
R986-200-247	Utah Back to Work Pilot Program (BWP)	34897	AMD	08/02/2011	2011-12/81
R986-200-247	Utah Back to Work Pilot Program (BWP)	35219	AMD	11/01/2011	2011-18/80
R986-400-404	Participation Requirements	35001	AMD	09/01/2011	2011-14/123
R986-500-506	Safeguarding Records	34935	AMD	08/18/2011	2011-13/72
R986-600	Workforce Investment Act	34277	AMD	01/26/2011	2010-24/69
R986-700	Child Care Assistance	34678	AMD	06/15/2011	2011-9/110

R986-700-714	CC Payment Method	35218	AMD	11/01/2011	2011-18/81
<u>Unemployment Insurance</u>					
R994-207-101	General Definition	34899	AMD	08/02/2011	2011-12/82
R994-302	Employer Contribution Payments	34776	5YR	05/05/2011	2011-11/133
R994-308	Bond Requirement	34777	5YR	05/05/2011	2011-11/134
R994-403-112c	Available	34898	AMD	08/02/2011	2011-12/83
R994-403-113c	Work Search	34361	AMD	03/15/2011	2011-3/52
R994-508	Appeal Procedures	34445	AMD	04/11/2011	2011-5/97