

# UTAH STATE BULLETIN

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

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

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# **SPECIAL NOTICES**

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## **Health Health Care Financing, Coverage and Reimbursement Policy**

### **Notice for October 2012 Medicaid Rate Changes**

Effective October 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. Nursing home rate changes to case mix components are consistent with adopted payment methodology. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/bcrp.htm>

**End of the Special Notices Section**





## NOTICES OF PROPOSED RULES

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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 August 16, 2012, 12:00 a.m., and August 31, 2012, 11:59 p.m. are included in this, the September 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 October 15, 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 January 13, 2013, the agency may notify the Division of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses and the agency must start the process over.

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

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

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**The Proposed Rules Begin on the Following Page**

## Agriculture and Food, Animal Industry

### R58-3

### Brucellosis Vaccination Requirements

#### NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 36683

FILED: 08/22/2012

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to establish the brucellosis vaccination requirements of cattle and bison in the State of Utah.

**SUMMARY OF THE RULE OR CHANGE:** Brucellosis vaccination requirements for cattle and bison were found in Section 4-31-16.5 which was repealed during the 2012 General Session. During the same legislative session, Section 4-31-109 was enacted that gave the Department of Agriculture and Food the authority to create rules governing the control of brucellosis in the State of Utah. In May 2012, an emergency rule was put in place that governed the brucellosis vaccination requirements for the State. This rule is identical to the requirements found in the emergency rule. (DAR NOTE: A corresponding 120-day (emergency) rule is under DAR No. 36143 in the June 1, 2012, issue of the Bulletin and is effective as of 05/08/2012.)

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 4-31-109 and Subsection 4-2-2(1)(c)(i) and Subsection 4-2-2(1)(j)

#### ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule is no different than what was found in Section 4-31-16.5 that was repealed during the 2012 General Session and the emergency rule that was put in place on 05/08/2012. This will not impose any change to the current or future budget of the Department of Agriculture and Food.

◆ **LOCAL GOVERNMENTS:** The vaccination of cattle and bison is not covered under any local government agency. Vaccination of cattle and bison for brucellosis reduces the possibility of the disease from entering the animal population. Because brucellosis can be transmitted to humans, the elimination of brucellosis in Utah has reduced the burden on local health departments that no longer have to conduct disease investigations and follow ups.

◆ **SMALL BUSINESSES:** Beef cattle producers have been vaccinating their replacement heifers for a number of years so this has become a routine herd health cost. The vaccination of replacement heifers has an added value when it comes to selling heifers.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The general public enjoys brucellosis free meat and milk

because of the continued disease free status of Utah beef and dairy cattle which was in part a result of a required brucellosis vaccination program.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Beef cattle and bison producers will bear the burden of the costs associated with the vaccination of their replacement heifers. The typical cost for brucellosis vaccination would be \$4 to \$5 per heifer.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The Utah Cattlemen Association, as well as individual beef producers are requesting that the emergency rule (Rule R58-3, DAR No. 36143) be made into final rule. A brucellosis free beef cattle population in the State of Utah is good for the public and the cattle producers.

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

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

#### DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Bruce King by phone at 801-538-7162, by FAX at 801-538-7169, or by Internet E-mail at [bking@utah.gov](mailto:bking@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](mailto: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](mailto:kylestephens@utah.gov)  
◆ Wyatt Frampton by phone at 801-538-7165, by FAX at 801-538-7169, or by Internet E-mail at [wframpton@utah.gov](mailto:wframpton@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

AUTHORIZED BY: Leonard Blackham, Commissioner

#### **R58. Agriculture and Food, Animal Industry.**

##### **R58-3. Brucellosis Vaccination Requirements.**

##### **R58-3-1. Authority.**

(1) Promulgated under the authority of section 4-31-109 and Subsections 4-2-2(1)(c)(i), 4-2-2(1)(j).

(2) It is the intent of this rule to state the brucellosis vaccination requirements for cattle and bison within Utah.

##### **R58-3-2. Definitions.**

(1) "Accredited Veterinarian" means a veterinarian approved by the Deputy Administrator of Veterinary Services (VS), Animal and Plant Health Inspection Services (APHIS), United States Department of Agriculture (USDA), in accordance with the

provisions of 9 CFR 161 to perform functions required by cooperative State-Federal disease control and eradication programs.

(2) "Bison" means a bovine-like animal (genus Bison) commonly referred to as American buffalo or buffalo.

(3) "Cattle" means all domestic bovine (genus Bos).

(4) "Official USDA vaccination tag" means a metal identification eartag that provides unique identification for each individual animal by conforming to the nine (9)-character alpha-numeric national uniform eartagging system or any other unique identification device approved by the United States Department of Agriculture.

(5) "RFID" means a radio frequency identification device used as individual identification of livestock.

**R58-3-3. Utah Cattle and Bison Vaccination Requirements.**

(1) All Utah beef cattle and bison heifers intended for replacement breeding animals must be vaccinated against Brucella abortus.

(2) Vaccination of beef cattle and bison heifer calves shall be administered by an accredited veterinarian or by a brucellosis technician.

(3) All beef cattle and bison heifers shall be vaccinated with strain RB-51 administered between 4 and 12 months of age. These heifers shall be properly identified by official tattoos and ear tag (either official USDA vaccination tag or RFID of approved design) and shall be reported on an official vaccination certificate (VS Form 4-24) within 30 days to the State Veterinarian.

(4) Beef cattle and bison heifers not intended for replacement breeding are exempt from the vaccination requirement in subsection R58-3-3(2).

**KEY: brucellosis, vaccination, cattle, bison**

**Date of Enactment or Last Substantive Amendment: 2012**

**Authorizing, and Implemented or Interpreted Law: 4-31-109; 4-2-2(1)(c)(i); 4-2-2(1)(j)**

**Commerce, Occupational and  
Professional Licensing  
R156-55a  
Utah Construction Trades Licensing Act  
Rule**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 36687

FILED: 08/23/2012

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and Construction Services Commission are proposing amendments to this rule to clarify the work that is allowed under the S350 HVAC (Heating, Ventilation and Air Conditioning) contractor and S211 boiler installation contractor and the experience required to obtain the S211 boiler installation classification. Proposed

amendments also update statutory citations as needed. Proposed amendments also add the R200 Factory Built Housing Contractor classification to the listing of classifications requiring a trade examination.

SUMMARY OF THE RULE OR CHANGE: In Section R156-55a-301, updated statutory citations in B200 classification. S211 Boiler Installation Contractor and S350 HVAC Contractor - amendments in these two sections clarify that work on residential boilers and water heaters is not included in the S211 or S350 classifications. The S211 classification was originally established for work on commercial boiler systems. Recent development of residential type boilers required clarification that this type of work is not allowed in these classification. Residential boilers and water heaters should be installed by a licensed plumbing contractor under the S210 classification. In Section R156-55a-302a, the proposed amendment adds the R200 Factory Built Housing contractor classification to the list of classifications requiring a trade examination. When this list of classifications requiring trade examinations was first included in the rule on 06/24/2008, the R200 classification was included in the proposed list but was inadvertently left off the list that was ultimately placed in the rule. This change corrects that error. In Section R156-55a-302b, the proposed amendments clarify that the experience required for the S211 classification shall be installation of commercial type boilers. Proposed amendments also change the experience requirement from two years to four years for this classification due to the complicated nature of commercial boilers.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-55-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a) and Subsection 58-55-102(39)(a) and Subsection 58-55-308(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 contractors in the affected classifications 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 contractors in the affected classifications which may qualify as a small business and applicants for licensure in those classifications. The change in the experience requirement for the S211 classification will require contractors who apply for the S211 classification to have four years experience rather than two years or alternatively hire a licensed plumber at least part time. The number of contractors affected or the cost to meet this requirement is impossible to estimate. The change to clarify the S211 classification is for commercial boilers would not result in any significant impact from contractors using the S211 classification as originally intended. However, if a contractor

has been using this classification to perform work on residential boilers or water heaters, such a contractor would, after the rule change, be required to obtain the S200 classification in order to continue to do that type of work. Obtaining the S200 classification would require submitting an application and requires employing a qualified plumber, working at least part time. The application fee to add the classification is \$200. In addition, if the qualified plumber had not previously taken the Utah Laws and Rules examination, the plumber would need to take and pass that examination. The cost of the examination is \$72. It is impossible to estimate how many contractors would be affected by the rule change and the total cost that they may incur in addition to the above costs in order to obtain the additional classification.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendments only apply to licensed contractors in the affected classifications and applicants for licensure in those classifications. The change in the experience requirement for the S211 classification will require contractors who apply for the S211 classification to have four years experience rather than two years or alternatively hire a licensed plumber at least part time. The number of contractors affected or the cost to meet this requirement is impossible to estimate. The change to clarify the S211 classification is for commercial boilers would not result in any significant impact from contractors using the S211 classification as originally intended. However, if a contractor has been using this classification to perform work on residential boilers or water heaters, such a contractor would after the rule change, be required to obtain the S200 classification in order to continue to do that type of work. Obtaining the S200 classification would require submitting an application and requires employing a qualified plumber, working at least part time. The application fee to add the classification is \$200. In addition, if the qualified plumber had not previously taken the Utah Laws and Rules examination, the plumber would need to take and pass that examination. The cost of the examination is \$72. It is impossible to estimate how many contractors would be affected by the rule change and the total cost that they may incur in addition to the above costs in order to obtain the additional classification.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed contractors in the affected classifications and applicants for licensure in those classifications. The change in the experience requirement for the S211 classification will require contractors who apply for the S211 classification to have four years experience rather than two years or alternatively hire a licensed plumber at least part time. The number of contractors affected or the cost to meet this requirement is impossible to estimate. The change to clarify the S211 classification is for commercial boilers would not result in any significant impact from contractors using the S211 classification as originally intended. However, if a contractor has been using this classification to perform work on residential boilers or water heaters, such a contractor would after the rule change, be required to obtain the S200

classification in order to continue to do that type of work. Obtaining the S200 classification would require submitting an application and requires employing a qualified plumber, working at least part time. The application fee to add the classification is \$200. In addition, if the qualified plumber had not previously taken the Utah Laws and Rules examination, the plumber would need to take and pass that examination. The cost of the examination is \$72. It is impossible to estimate how many contractors would be affected by the rule change and the total cost that they may incur in addition to the above costs in order to obtain the additional classification.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As described in the rule summary, there will be a fiscal impact to some licensees as a result of this rule filing which requires additional experience and examination for certain licensees, as well as the clarification that the S211 classification does not include work on residential boilers. The cost to licensees is difficult to estimate as it is not clear how many licensees are affected by the rule change.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 09/26/2012 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.  
R156-55a. Utah Construction Trades Licensing Act Rule.  
R156-55a-301. License Classifications - Scope of Practice.**

(1) In accordance with Subsection 58-55-301(2), the classifications of licensure are listed and described in this section. The construction trades or specialty contractor classifications listed are those determined to significantly impact the public health, safety, and welfare. A person who is engaged in work which is included in the items listed in Subsections R156-55a-301(4) and (5)

is exempt from licensure in accordance with Subsection 58-55-305(1)(i).

(2) Licenses shall be issued in the following primary classifications and subclassifications:

E100 - General Engineering Contractor. A General Engineering contractor is a contractor licensed to perform work as defined in Subsection 58-55-102(22).

B100 - General Building Contractor. A General Building contractor is a contractor licensed to perform work as defined in Subsection 58-55-102(21) and pursuant to Subsection 58-55-102(21)(b) is clarified as follows:

(a) The General Building Contractor scope of practice does not include activities described in this Subsection under specialty classification S202 - Solar Photovoltaic Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the North American Board of Certified Energy Practitioners.

(b) The General Building Contractor scope of practice does not include activities described in this Subsection under specialty classification S354-Radon Mitigation Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the National Radon Safety Board (NRSB) or the National Radon Proficiency Program (NEHA-NRPP).

B200 - Modular Unit Installation Contractor. Set up or installation of modular units as defined in Subsection [~~58-56-3(45)~~15A-1-302(8)] and constructed in accordance with Section [~~58-56-13~~15A-1-304]. The scope of the work permitted under this classification includes construction of the permanent or temporary foundations, placement of the modular unit on a permanent or temporary foundation, securing the units together if required and securing the modular units to the foundations. Work excluded from this classification includes installation of factory built housing and connection of required utilities.

R100 - Residential and Small Commercial Contractor. A Residential and Small Commercial contractor is a contractor licensed to perform work as defined in Subsection 58-55-102(32) and pursuant to Subsection 58-55-102(32) is clarified as follows:

(a) The Residential and Small Commercial Contractor scope of practice does not include activities described in this Subsection under specialty classification S202 - Solar Photovoltaic Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the North American Board of Certified Energy Practitioners.

(b) The Residential and Small Commercial Contractor scope of practice does not include activities described in this Subsection under specialty classification S354-Radon Mitigation Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the National Radon Safety Board (NRSB) or the National Radon Proficiency Program (NEHA-NRPP).

R101 - Residential and Small Commercial Non Structural Remodeling and Repair. Remodeling and repair to any existing structure built for support, shelter and enclosure of persons, animals, chattels or movable property of any kind with the restriction that no change is made to the bearing portions of the existing structure, including footings, foundation and weight bearing walls; and the entire project is less than \$50,000 in total cost.

R200 - Factory Built Housing Contractor. Disconnection, setup, installation or removal of manufactured housing on a temporary or permanent basis. The scope of the work permitted under this classification includes placement of the manufactured housing on a permanent or temporary foundation, securing the units together if required, securing the manufactured housing to the foundation, and connection of the utilities from the near proximity, such as a meter, to the manufactured housing unit and construction of foundations of less than four feet six inches in height. Work excluded from this classification includes site preparation or finishing, excavation of the ground in the area where a foundation is to be constructed, back filling and grading around the foundation, construction of foundations of more than four feet six inches in height and construction of utility services from the utility source to and including the meter or meters if required or if not required to the near proximity of the manufactured housing unit from which they are connected to the unit.

I101 - General Engineering Trades Instruction Facility. A General Engineering Trades Instruction Facility is a construction trades instruction facility authorized to teach the construction trades and is subject to the scope of practice defined in Subsection 58-55-102(22).

I102 - General Building Trades Instruction Facility. A General Building Trades Instruction Facility is a construction trades instruction facility authorized to teach the construction trades and is subject to the scope of practice defined in Subsections 58-55-102(21) or 58-55-102(32).

I103 - Electrical Trades Instruction Facility. An Electrical Trades Instruction Facility is a construction trades instruction facility authorized to teach the electrical trades and subject to the scope of practice defined in Subsection R156-55a-301(S200).

I104 - Plumbing Trades Instruction Facility. A Plumbing Trades Instruction Facility is a construction trades instruction facility authorized to teach the plumbing trades and subject to the scope of practice defined in Subsection R156-55a-301(S210).

I105 - Mechanical Trades Instruction Facility. A Mechanical Trades Instruction Facility is a construction trades instruction facility authorized to teach the mechanical trades and subject to the scope of practice defined in Subsection R156-55a-301(S350).

S200 - General Electrical Contractor. Fabrication, construction, and/or installation of generators, transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, or apparatus which utilizes electrical energy. The General Electrical Contractor scope of practice does not include activities described in this Subsection under specialty classification S354-Radon Mitigation Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the National Radon Safety Board (NRSB) or the National Radon Proficiency Program (NEHA-NRPP).

S201 - Residential Electrical Contractor. Fabrication, construction, and/or installation of services, disconnecting means, grounding devices, panels, conductors, load centers, lighting and plug circuits, appliances and fixtures in any residential unit, normally requiring non-metallic sheathed cable, including multiple units up to and including a four-plex, but excluding any work generally recognized in the industry as commercial or industrial.

S202 - Solar Photovoltaic Contractor. Fabrication, construction, installation, and replacement of photovoltaic cell panels and related components. Wiring, connections and wire methods as governed in the National Electrical Code and Subsection R156-55b-102(1) shall only be performed by an S200 General Electrical Contractor or S201 Residential Electrical Contractor. This classification is not required to install stand alone solar systems that do not tie into premises wiring or into the electrical utility, such as signage or street or parking lighting.

S210 - General Plumbing Contractor. Fabrication and/or installation of material and fixtures to create and maintain sanitary conditions in buildings, by providing a permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and provision of a safe and adequate supply of gases for lighting, heating, and industrial purposes. Work permitted under this classification shall include the furnishing of materials, fixtures and labor to extend service from a building out to the main water, sewer or gas pipeline. The General Plumbing Contractor scope of practice does not include activities described in this Subsection under specialty classification S354-Radon Mitigation Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the National Radon Safety Board (NRSB) or the National Radon Proficiency Program (NEHA-NRPP).

S211 - Boiler Installation Contractor. Fabrication and/or installation of commercial type fire-tube and water-tube power boilers and hot water heating boilers, including all fittings and piping, valves, gauges, pumps, radiators, converters, fuel oil tanks, fuel lines, chimney flues, heat insulation and all other devices, apparatus, and equipment related thereto. The supply line of potable water up to and including installation of the backflow prevention device must be performed by a licensed plumbing contractor. Residential boilers and water heater installation is not allowed under this classification.

S212 - Irrigation Sprinkling Contractor. Layout, fabrication, and/or installation of water distribution system for artificial watering or irrigation.

S213 - Industrial Piping Contractor. Fabrication and/or installation of pipes and piping for the conveyance or transmission of steam, gases, chemicals, and other substances including excavating, trenching, and back-filling related to such work. This classification includes the above work for geo thermal systems.

S214 - Water Conditioning Equipment Contractor. Fabrication and/or installation of water conditioning equipment and only such pipe and fittings as are necessary for connecting the water conditioning equipment to the water supply system within the premises.

S215 - Solar Thermal Systems Contractor. Construction, repair and/or installation of solar thermal systems up to the system shut off valve or where the system interfaces with any other plumbing system.

S216 - Residential Sewer Connection and Septic Tank Contractor. Construction of residential sewer lines including connection to the public sewer line, and excavation and grading related thereto. Excavation, installation and grading of residential septic tanks and their drainage.

S217 - Residential Plumbing Contractor. Fabrication and/or installation of material and fixtures to create and maintain sanitary conditions in residential building, including multiple units up to and including a four-plex by providing a permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and provision of a safe and adequate supply of gases for lighting and heating purposes. Work permitted under this classification shall include the furnishing of materials, fixtures and labor to extend service from a residential building out to the main water, sewer or gas pipeline. Excluded is any new construction and service work generally recognized in the industry as commercial or industrial.

S220 - Carpentry Contractor. Fabrication for structural and finish purposes in a structure or building using wood, wood products, metal studs, vinyl materials, or other wood/plastic/metal composites as is by custom and usage accepted in the building industry as carpentry. Incidental work includes the installation of tub liners and wall systems.

S221 - Cabinet, Millwork and Countertop Installation Contractor. On-site construction and/or installation of milled wood products or countertops.

S222 - Overhead and Garage Door Contractor. The installation of overhead and garage doors and door openers.

S230 - Siding Contractor. Fabrication, construction, and/or installation of siding.

S231 - Raingutter Installation Contractor. On-site fabrication and/or installation of raingutters and drains, roof flashings, gravel stops and metal ridges.

S240 - Glass and Glazing Contractor. Fabrication, construction, installation, and/or removal of all types and sizes of glass, mirrors, substitutes for glass, glass-holding members, frames, hardware, and other incidental related work.

S250 - Insulation Contractor. Installation of any insulating media in buildings and structures for the sole purpose of temperature control, sound control or fireproofing, but shall not include mechanical insulation of pipes, ducts or conduits.

S260 - General Concrete Contractor. Fabrication, construction, mixing, batching, and/or installation of concrete and related concrete products along with the placing and setting of screeds for pavement for flatwork, the construction of forms, placing and erection of steel bars for reinforcing and application of plaster and other cement-related products.

S261 - Concrete Form Setting and Shoring Contractor. Fabrication, construction, and/or installation of forms and shoring material; but, does not include the placement of concrete, finishing of concrete or embedded items such as metal reinforcement bars or mesh.

S262 - Gunnite and Pressure Grouting Contractor. Installation of a concrete product either injected or sprayed under pressure.

S263 - Cementitious Coating Systems Resurfacing and Sealing Contractor. Fabrication, construction, mixing, batching and installation of cementitious coating systems or sealants limited to the resurfacing or sealing of existing surfaces, including the preparation or patching of the surface to be covered or sealed.

S270 - General Drywall and Plastering Contractor. Fabrication, construction, and installation of drywall, gypsum, wallboard panels and assemblies. Preparation of drywall or plaster surfaces for suitable painting or finishing. Application to surfaces of coatings made of plaster, including the preparation of the surface and the provision of a base. This does not include applying stucco to lathe, plaster and other surfaces. Exempted is the plastering of foundations.

S272 - Ceiling Grid Systems, Ceiling Tile and Panel Systems Contractor. Fabrication and/or installation of wood, mineral, fiber, and other types of ceiling tile and panels and the grid systems required for placement.

S273 - Light-weight Metal and Non-bearing Wall Partitions Contractor. Fabrication and/or installation of light-weight metal and other non-bearing wall partitions.

S280 - General Roofing Contractor. Application and/or installation of asphalt, pitch, tar, felt, flax, shakes, shingles, roof tile, slate, and any other material or materials, or any combination of any thereof which use and custom has established as usable for, or which are now used as, water-proof, weatherproof, or watertight seal or membranes for roofs and surfaces; and roof conversion. Incidental work includes the installation of roof clamp ring to the roof drain.

S290 - General Masonry Contractor. Construction by cutting, and/or laying of all of the following brick, block, or forms: architectural, industrial, and refractory brick, all brick substitutes, clay and concrete blocks, terra-cotta, thin set or structural quarry tile, glazed structural tile, gypsum tile, glass block, clay tile, copings, natural stone, plastic refractories, and castables and any incidental works, including the installation of shower pans, as required in construction of the masonry work.

S291 - Stone Masonry Contractor. Construction using natural or artificial stone, either rough or cut and dressed, laid at random, with or without mortar. Incidental work includes the installation of shower pans.

S292 - Terrazzo Contractor. Construction by fabrication, grinding, and polishing of terrazzo by the setting of chips of marble, stone, or other material in an irregular pattern with the use of cement, polyester, epoxy or other common binders. Incidental work includes the installation of shower pans.

S293 - Marble, Tile and Ceramic Contractor. Preparation, fabrication, construction, and installation of artificial marble, burned clay tile, ceramic, encaustic, falence, quarry, semi-vitreous, and other tile, excluding hollow or structural partition tile. Incidental work includes the installation of shower pans.

S294 - Cultured Marble Contractor. Preparation, fabrication and installation of slab and sheet manmade synthetic products including cultured marble, onyx, granite, onice, corian, and corian type products. Incidental work includes the installation of shower pans.

S300 - General Painting Contractor. Preparation of surface and/or the application of all paints, varnishes, shellacs, stains, waxes and other coatings or pigments.

S310 - Excavation and Grading Contractor. Moving of the earth's surface or placing earthen materials on the earth's surface, by use of hand or power machinery and tools, including explosives, in any operation of cut, fill, excavation, grading, trenching, backfilling, or combination thereof as they are generally practiced in the construction trade.

S320 - Steel Erection Contractor. Construction by fabrication, placing, and tying or welding of steel reinforcing bars or erecting structural steel shapes, plates of any profile, perimeter or cross-section that are used to reinforce concrete or as structural members, including riveting, welding, and rigging.

S321 - Steel Reinforcing Contractor. Fabricating, placing, tying, or mechanically welding of reinforcing bars of any profile that are used to reinforce concrete buildings or structures.

S322 - Metal Building Erection Contractor. Erection of pre-fabricated metal structures including concrete foundation and footings, grading, and surface preparation.

S323 - Structural Stud Erection Contractor. Fabrication and installation of metal structural studs and bearing walls.

S330 - Landscaping Contractor.

(a) grading and preparing land for architectural, horticultural, or decorative treatment;

(b) arrangement, and planting of gardens, lawns, shrubs, vines, bushes, trees, or other decorative vegetation;

(c) construction of small decorative pools, tanks, fountains, hothouses, greenhouses, fences, walks, garden lighting of 50 volts or less, or sprinkler systems;

(d) construction of retaining walls except retaining walls which are intended to hold vehicles, structures, equipment or other non natural fill materials within the area located within a 45 degree angle from the base of the retaining wall to the level of where the additional weight bearing vehicles, structures, equipment or other non natural fill materials are located; or

(e) patio areas except that:

(i) no decking designed to support humans or structures shall be included; and

(ii) no concrete work designed to support structures to be placed upon the patio shall be included.

(f) This classification does not include running electrical or gas lines to any appliance.

S340 - Sheet Metal Contractor. Layout, fabrication, and installation of air handling and ventilating systems. All architectural sheet metal such as cornices, marquees, metal soffits, gutters, flashings, and skylights and skydomes including both plastic and fiberglass.

S350 - HVAC Contractor. Fabrication and installation of complete warm air heating and air conditioning systems, and complete ventilating systems. The HVAC Contractor scope of practice does not include activities described in this Subsection under specialty classification S354-Radon Mitigation Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the National Radon Safety Board (NRSB) or the National Radon Proficiency Program (NEHA-NRPP). Installation of water heaters or any boiler system is not allowed under this classification.

S351 - Refrigerated Air Conditioning Contractor. Fabrication and installation of air conditioning ventilating systems to control air temperatures below 50 degrees.

S352 - Evaporative Cooling Contractor. Fabrication and installation of devices, machinery, and units to cool the air temperature employing evaporation of liquid.

S353 - Warm Air Heating Contractor. Layout, fabrication, and installation of such sheet metal, gas piping, and furnace equipment as necessary for a complete warm air heating and ventilating system.

S354 - Radon Mitigation Contractor. Layout, fabrication, and installation of a radon mitigation system. This classification does not include work on heat recovery ventilation or makeup air components which must be performed by an HVAC Contractor and does not include electrical wiring which must be performed by an Electrical Contractor.

S360 - Refrigeration Contractor. Construction and/or installation of refrigeration equipment including, but not limited to, built-in refrigerators, refrigerated rooms, insulated refrigerated spaces and equipment related thereto; but, the scope of permitted work does not include the installation of gas fuel or electric power services other than connection of electrical devices to a junction box provided for that device and electrical control circuitry not exceeding 50 volts.

S370 - Fire Suppression Systems Contractor. Layout, fabrication, and installation of fire protection systems using water, steam, gas, or chemicals. When a potable sanitary water supply system is used as the source of supply, connection to the water system must be accomplished by a licensed journeyman plumber. Excluded from this classification are persons engaged in the installation of fire suppression systems in hoods above cooking appliances.

S380 - Swimming Pool and Spa Contractor. On-site fabrication, construction and installation of swimming pools, prefabricated pools, spas, and tubs.

S390 - Sewer and Waste Water Pipeline Contractor. Construction of sewer lines, sewage disposal and sewage drain facilities including excavation and grading with respect thereto, and the construction of sewage disposal plants and appurtenances thereto.

S400 - Asphalt Paving Contractor. Construction of asphalt highways, roadways, driveways, parking lots or other asphalt surfaces, which will include but will not be limited to, asphalt overlay, chip seal, fog seal and rejuvenation, micro surfacing, plant mix sealcoat, slurry seal, and the removal of asphalt surfaces by milling. Also included is the excavation, grading, compacting and laying of fill or base-related thereto. Also included in painting on asphalt surfaces including striping, directional and other types of symbols or words.

S410 - Pipeline and Conduit Contractor. Fabrication, construction, and installation of pipes, conduit or cables for the conveyance and transmission from one station to another of such products as water, steam, gases, chemicals, slurries, data or communications. Included are the excavation, cabling, horizontal boring, grading, and backfilling necessary for construction of the system.

S420 - General Fencing, Ornamental Iron and Guardrail Contractor. Fabrication, construction, and installation of fences, guardrails, handrails, and barriers.

S421 - Residential Fencing Contractor. Fabrication and installation of residential fencing up to and including a height of six feet.

S430 - Metal Firebox and Fuel Burning Stove Installer. Fabrication, construction, and installation of metal fireboxes, fireplaces, and wood or coal-burning stoves, including the installation of venting and exhaust systems, provided the individual performing the installation is RMGA certified.

S440 - Sign Installation Contractor. Installation of signs and graphic displays which require installation permits or permission as issued by state or local governmental jurisdictions. Signs and graphic displays shall include signs of all types, both lighted and unlighted, permanent highway marker signs, illuminated awnings, electronic message centers, sculptures or graphic representations including logos and trademarks intended to identify or advertise the user or his product, building trim or lighting with neon or decorative fixtures, or any other animated, moving or stationary device used for advertising or identification purposes. Signs and graphic displays must be fabricated, installed and erected in accordance with professionally engineered specifications and wiring in accordance with the National Electrical Code.

S441 - Non Electrical Outdoor Advertising Sign Contractor. Installation of signs and graphic displays which require installation permits or permission as issued by state and local governmental jurisdictions. Signs and graphics shall include outdoor advertising signs which do not have electrical lighting or other electrical requirements, and in accordance with professionally engineered specifications.

S450 - Mechanical Insulation Contractor. Fabrication, application and installation of insulation materials to pipes, ducts and conduits.

S460 - Wrecking and Demolition Contractor. The raising, cribbing, underpinning, moving, and removal of building and structures.

S470 - Petroleum Systems Contractor. Installation of above and below ground petroleum and petro-chemical storage tanks, piping, dispensing equipment, monitoring equipment and associated petroleum and petro-chemical equipment including excavation, backfilling, concrete and asphalt.

S480 - Piers and Foundations Contractor. The excavation, drilling, compacting, pumping, sealing and other work necessary to construct, alter or repair piers, piles, footings and foundations placed in the earth's subsurface to prevent structural settling and to provide an adequate capacity to sustain or transmit the structural load to the soil or rock below.

S490 - Wood Flooring Contractor. Installation of wood flooring including prefinished and unfinished material, sanding, staining and finishing of new and existing wood flooring. Underlayments, non-structural subfloors and other incidental related work.

S491 - Laminate Floor Installation Contractor. Installation of laminate floors including underlayments, non-structural subfloors and other incidental related work, but does not include the installation of solid wood flooring.

S500 - Sports and Athletic Courts, Running Tracks, and Playground Installation Contractor. Installation of sports and athletic courts including but not limited to tennis courts, racquetball courts, handball courts, basketball courts, running tracks, playgrounds, or any combination. Includes nonstructural floor subsurfaces, nonstructural wall surfaces, perimeter walls and perimeter fencing. Includes the installation and attachment of equipment such as poles, basketball standards or other equipment.

S510 - Elevator Contractor. Erecting, constructing, installing, altering, servicing, repairing or maintaining an elevator.



S600 - General Stucco Contractor. Applying stucco to lathe, plaster and other surfaces.

S700 - Specialty License Contractor.

(a) A specialty license is a license that confines the scope of the allowable contracting work to a specialized area of construction which the Division grants on a case-by-case basis.

(b) When applying for a specialty license, an applicant, if requested, shall submit to the Division the following:

(i) a detailed statement of the type and scope of contracting work that the applicant proposes to perform; and

(ii) any brochures, catalogs, photographs, diagrams, or other material to further clarify the scope of the work that the applicant proposes to perform.

(c) A contractor issued a specialty license shall confine the contractor's activities to the field and scope of operations as outlined by the Division.

(3) The scope of practice for the following primary classifications includes the scope of practice stated in the descriptions for the following subclassifications:

TABLE I

Primary Classification	Included subclassifications
S200	S201, S202
S210	S211, S212, S213, S214, S215, S216, S217
S220	S221, S222
S230	S231
S260	S261, S262, S263
S270	S272, S273
S290	S291, S292, S293, S294
S320	S321, S322, S323
S350	S351, S325, S353, S354
S420	S421
S440	S441
S490	S491

(4) The following activities are determined to not significantly impact the public health, safety and welfare and therefore do not require a contractors license:

- (a) sandblasting;
- (b) pumping services;
- (c) tree stump or tree removal;
- (d) installation within a building of communication cables including phone and cable television;
- (e) installation of low voltage electrical as described in R156-55b-102(1);
- (f) construction of utility sheds, gazebos or other similar items which are personal property and not attached;
- (g) building and window washing, including power washing;
- (h) central vacuum systems installation;
- (i) concrete cutting;
- (j) interior decorating;
- (k) wall paper hanging;
- (l) drapery and blind installation;
- (m) welding on personal property which is not attached;
- (n) chimney sweepers other than repairing masonry;
- (o) carpet and vinyl floor installation; and
- (p) artificial turf installation.

(5) The following activities are those determined to not significantly impact the public health, safety and welfare beyond the

regulations by other agencies and therefore do not require a contractors license:

- (a) lead removal regulated by the Department of Environmental Quality;
- (b) asbestos removal regulated by the Department of Environmental Quality; and
- (c) fire alarm installation regulated by the Fire Marshal.

**R156-55a-302a. Qualifications for Licensure - Examinations.**

(1) In accordance with Subsection 58-55-302(1)(c), the qualifier for an applicant for licensure as a contractor or the qualifier for an applicant for licensure as a construction trades instruction facility shall pass the following examinations:

- (a) the Utah Contractor Business - Law Examination; and
- (b) an approved trade classification specific examination, where required in Subsection (2).

(2) An approved trade classification specific examination is required for the following contractor license classifications:

- E100 - General Engineering Contractor
- B100 - General Building Contractor
- B200 - Modular Unit Installation Contractor
- R100 - Residential and Small Commercial Contractor
- R101 - Residential and Small Commercial Non Structural Remodeling and Repair Contractor
- R200 - Factory Built Housing Contractor
- I101 - General Engineering Trades Instruction Facility
- I102 - General Building Trades Instruction Facility
- I105 - Mechanical Trades Instruction Facility
- S212 - Irrigation Sprinkling Contractor
- S213 - Industrial Piping Contractor
- S215 - Solar Thermal Systems Contractor
- S216 - Residential Sewer Connection and Septic Tank Contractor
- S220 - Carpentry Contractor
- S222 - Overhead and Garage Door Contractor
- S230 - Siding Contractor
- S240 - Glass and Glazing Contractor
- S250 - Insulation Contractor
- S260 - General Concrete Contractor
- S270 - General Drywall and Plastering Contractor
- S280 - General Roofing Contractor
- S290 - General Masonry Contractor
- S293 - Marble, Tile and Ceramic Contractor
- S300 - General Painting Contractor
- S310 - Excavation and Grading Contractor
- S320 - Steel Erection Contractor
- S321 - Steel Reinforcing Contractor
- S330 - Landscaping Contractor
- S340 - Sheet Metal Contractor
- S350 - HVAC Contractor
- S351 - Refrigerated Air Conditioning Contractor
- S353 - Warm Air Heating Contractor
- S360 - Refrigeration Contractor
- S370 - Fire Suppression Systems Contractor
- S380 - Swimming Pool and Spa Contractor
- S390 - Sewer and Waste Water Pipeline Contractor
- S410 - Pipeline and Conduit Contractor
- S440 - Sign Installation Contractor
- S450 - Mechanical Insulation Contractor

S490 - Wood Flooring Contractor

S600 - General Stucco Contractor

(3) The passing score for each examination is 70%.

(4) Qualifications to sit for examination.

(a) An applicant applying to take any examination specified in this Section must sign an affidavit verifying that an applicant has completed the experience required under Subsection R156-55a-302b.

(5) "Approved trade classification specific examination" means a trade classification specific examination:

(a) given, currently or in the past, by the Division's contractor examination provider; or

(b) given by another state if the Division has determined the examination to be substantially equivalent.

(6) An applicant for licensure who fails an examination may retake the failed examination as follows:

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

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

**R156-55a-302b. Qualifications for Licensure - Experience Requirements.**

In accordance with Subsection 58-55-302(1)(e)(ii), the minimum experience requirements are established as follows:

(1) Requirements for all license classifications:

(a) Unless otherwise provided in this rule, all experience shall be lawfully performed under the general supervision of a contractor licensed in the classification applied for or a substantially equivalent classification, and shall be subject to the following:

(i) If the experience was completed in Utah, it shall be:

(A) completed while a W-2 employee of a licensed contractor; or

(B) completed while working as an owner of a licensed contractor, which has for all periods of experience claimed, employed a qualifier who performed the duties and served in the capacities specified in Subsection 58-55-304(4) and in Subsection R156-55a-304.

(ii) If the experience was completed outside of the state of Utah, it shall be:

(A) completed in compliance with the laws of the jurisdiction in which the experience is completed; and

(B) completed with supervision that is substantially equivalent to the supervision that is required in Utah.

(iii) Experience may be determined to be substantially equivalent if lawfully obtained in a setting which has supervision of qualified persons and an equivalent scope of work, such as performing construction activities in the military where licensure is not required.

(b) All experience shall be directly related to the scope of practice set forth in Section R156-55a-301 of the classification the applicant is applying for, as determined by the Division.

(c) One year of work experience means 2000 hours.

(d) No more than 2000 hours of experience during any 12 month period may be claimed.

(e) Except as described in Subsection (2)(c), experience obtained under the supervision of a construction trades instructor as a part of an educational program is not qualifying experience for a contractor's license.

(2) Requirements for E100 General Engineering, B100 General Building, R100 Residential and Small Commercial Building license classifications:

(a) In addition to the requirements of paragraph (1), an applicant for an R100, B100 or E100 license shall have within the past 10 years a minimum of four years experience.

(b) Two of the required four years of experience shall be in a supervisory or managerial position.

(c) A person holding a four year bachelors degree or a two year associates degree in Construction Management may have one year of experience credited towards the supervisory or managerial experience requirement.

(d) A person holding a Utah professional engineer license may be credited with satisfying one year toward the supervisory or managerial experience required for E100 contractor license.

(3) Requirements for S211 Boiler Installation, S220 Carpentry, S280 General Roofing, S290 General Masonry, S320 Steel Erection, S350 Heating Ventilating and Air Conditioning, S360 Refrigeration and S370 Fire Suppression Systems license classifications: [

\_\_\_\_\_] In addition to the requirements of paragraph (1), an applicant shall have within the past 10 years a minimum of four years of experience.

(4) Requirements for I101 General Engineering Trades Instruction Facility, I102 General Building Trades Instruction Facility, I103 Electrical Trades Instruction Facility, I104 Plumbing Trades Instruction Facility, I105 Mechanical Trades Instruction Facility license classifications:

An applicant for construction trades instruction facility license shall have the same experience that is required for the license classifications for the construction trade they will instruct.

(5) Requirements for other license classifications:

Except as set forth in Subsections (6) and (7), in addition to the requirements of paragraph (1), an applicant for contractor license classification not listed above shall have within the past 10 years a minimum of two years of experience.

(6) Requirements for S202 Solar Photovoltaic Contractor. In addition to the requirements of Subsections (1) and (5), an applicant shall hold a current certificate by the North American Board of Certified Energy Practitioners.

(7) Requirements for S354 Radon Mitigation Contractor. In addition to the requirements of Subsections (1) and (5), an applicant shall hold a current certificate issued by the National Radon Safety Board (NRSB) or the National Radon Proficiency Program (NEHA-NRPP). Experience completed prior to the effective date of this rule does not need to be performed under the supervision of a licensed contractor. Experience completed after the effective date of this rule must be performed under the supervision of a licensed contractor who has authority to practice radon mitigation.

(8) Requirements for S211 Boiler Installation Contractor. The experience required under Subsection R156-55a-302b(3) for the S211 Boiler Installation Contractor shall be demonstrated by the qualifier being a currently active and licensed master plumber or shall include four years experience installing commercial type boilers.

**KEY: contractors, occupational licensing, licensing**  
**Date of Enactment or Last Substantive Amendment: [July 9,] 2012**  
**Notice of Continuation: October 4, 2011**  
**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-55-101; 58-55-308(1)(a); 58-55-102(39)(a)**

**Health, Health Care Financing,  
 Coverage and Reimbursement Policy  
 R414-22  
 Administrative Sanction Procedures  
 and Regulations**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 36710

FILED: 08/31/2012

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to grant discretionary authority to the Department and to the Provider Sanction Committee to sanction providers for current and past misconduct.

**SUMMARY OF THE RULE OR CHANGE:** This amendment grants discretionary authority to the Department and to the Provider Sanction Committee to sanction providers for current and past misconduct.

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

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There is no measurable impact to the state budget because instances of provider misconduct are rare. In most cases, other providers can fill in for providers who are excluded or terminated from the Medicaid program.

◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund nor provide Medicaid services to Medicaid recipients.

◆ **SMALL BUSINESSES:** There is no measurable impact to small businesses because instances of provider misconduct are rare. In most cases, other providers can fill in for providers who are excluded or terminated from the Medicaid program. Providers who are excluded from the Medicaid program will see a loss of revenue, but it is impossible to estimate how many recipients they may lose and for which services.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no measurable impact to Medicaid providers because instances of provider misconduct are rare. In most cases, other providers can fill in for providers who are

excluded or terminated from the Medicaid program. Providers who are excluded from the Medicaid program will see a loss of revenue, but it is impossible to estimate how many recipients they may lose and for which services. The Department does not anticipate any out-of-pocket expenses to Medicaid recipients due to a lack of access to services.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** A provider who is excluded or terminated from the Medicaid program will see a loss of revenue, but it is impossible to estimate how many recipients the provider may lose and for which services. The Department does not anticipate any out-of-pocket expenses to a single Medicaid recipient due to a lack of access to services.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Encouraging all qualified providers to enroll and participate in the Medicaid program does not include allowing sanctioned providers to participate when the health and safety of Medicaid recipients might be compromised. This rule supports giving state officials the tools to screen out providers with sanctions and any negative impact on such a provider is justified.

**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 10/15/2012**

**THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012**

**AUTHORIZED BY: David Patton, PhD, Executive Director**

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

**R414-22. Administrative Sanction Procedures and Regulations.**

**R414-22-3. Grounds for Excluding Providers.**

(1) Upon learning of the crime, misdemeanor or misconduct, the Department shall exclude a prospective Medicaid provider who:

(a) has a current restriction, suspension, or probation from the Division of Professional and Occupational Licensing (DOPL) or another state's equivalent agency for sexual misconduct

with a child, minor, or non-consenting adult under Title 76 of the Criminal Code; or

(b) is serving any term, completing any associated probation or parole, or still making complete court imposed restitution for a felony conviction involving:

- (i) a sexual crime;
- (ii) a controlled substance; or
- (iii) health care fraud

(c) has a current restriction on their license from DOPL or another state's equivalent agency to treat only a certain age group or gender or DOPL requires another medical professional to supervise and restrict the provider's activity; or

(d) is serving any term, completing any associated probation or parole, or still making complete court imposed restitution for a misdemeanor conviction that involves a controlled substance.

(2) Upon learning of the crime, misdemeanor or misconduct, the Department shall terminate a current Medicaid provider for any violation stated in Subsection R414-22-3(1).

(3) Subject to approval of the Provider Sanction Committee, the Department may enroll a provider who has served any term, completed any associated probation or parole, or made complete court-imposed restitution for a prior felony conviction involving:

- (a) a sexual crime;
- (b) a controlled substance; or
- (c) health care fraud.

(4) Subject to approval of the Provider Sanction Committee, the Department may enroll a provider or allow a provider to remain in the Medicaid program if the provider has a previous restriction, suspension, or probation from DOPL for sexual misconduct with a child, minor, or non-consenting adult under Title 76 of the Criminal Code

(5) Subject to approval of the Provider Sanction Committee, the Department may allow a provider to remain in the Medicaid program when the Office of Inspector General of Medicaid Services has recommended the program consider termination of the provider.

(6) The Provider Sanction Committee may consider the need to maintain client access to services when making a determination related to convictions or sanctions described in Subsection R414-22-3(3), (4), or (5).

(7) The Provider Sanction Committee may use any grounds described in Section R414-22-4 to exclude providers from Medicaid.

(8) The Department may exclude a prospective Medicaid provider who has a current restriction, suspension, or probation from DOPL or another state's equivalent agency.

(9) The Provider Sanction Committee may exclude a prospective provider for significant misconduct or substantial evidence of misconduct that creates a substantial risk of harm to the Medicaid program.

(10) If after review, the Provider Sanction Committee finds there is prior misconduct outlined in Section R414-22-3 or Section R414-22-4, the committee retains discretionary authority to not renew a provider agreement, to not reinstate a provider agreement, and to not enroll a provider until the provider has completed all requirements deemed necessary by the committee.

#### **R414-22-4. Grounds for Sanctioning Providers.**

The Department may impose sanctions against a provider who:

(1) knowingly present, or cause to be presented, to Medicaid any false or fraudulent claim, other than simple billing errors, for services or merchandise; or

(2) knowingly submits, or cause to be submitted, false information for the purpose of obtaining greater Medicaid reimbursement than the provider is legally entitled to; or

(3) knowingly submits, or cause to be submitted, for Medicaid reimbursement any claims on behalf of a provider who has been terminated or suspended from the Medicaid program, unless the claims for that provider were included for services or supplies provided prior to his suspension or termination from the Medicaid program; or

(4) knowingly submits, or cause to be submitted, false information for the purpose of meeting Medicaid prior authorization requirements; or

(5) fails to keep records that are necessary to substantiate services provided to Medicaid recipients; or

(6) fails to disclose or make available to the Department, its authorized agents, or the State Fraud Control Unit, records or services provided to Medicaid recipients or records of payments made for those services; or

(7) fails to provide services to Medicaid recipients in accordance with accepted medical community standards as adjudged by either a body of peers or appropriate state regulatory agencies; or

(8) breaches the terms of the Medicaid provider agreement; or

(9) fail to comply with the terms of the provider certification on the Medicaid claim form; or

(10) overutilizes the Medicaid program by inducing, providing, or otherwise causing a Medicaid recipient to receive services or merchandise that is not medically necessary; or

(11) rebates or accepts a fee or portion of a fee or charge for a Medicaid recipient referral; or

(12) violates the provisions of the Medical Assistance Act under Title 26, Chapter 18, or any other applicable rule or regulation; or

(13) knowingly submits a false or fraudulent application for Medicaid provider status; or

(14) violates any laws or regulations governing the conduct of health care occupations, professions, or regulated industries; or

(15) is convicted of a criminal offense relating to performance as a Medicaid provider; or

(16) conducts a negligent practice resulting in death or injury to a patient as determined in a judicial proceeding; or

(17) fails to comply with standards required by state or federal laws and regulations for continued participation in the Medicaid program; or

(18) conducts a documented practice of charging Medicaid recipients for Medicaid covered services over and above amounts paid by the Department unless there is a written agreement signed by the recipient that such charges will be paid by the recipient; or

(19) refuses to execute a new Medicaid provider agreement when doing so is necessary to ensure compliance with state or federal law or regulations; or

(20) fails to correct any deficiencies listed in a Statement of Deficiencies and Plan of Correction, CMS Form 2567, in provider operations within a specific time frame agreed to by the Department and the provider, or pursuant to a court or formal administrative hearing decision; or

(21) is suspended or terminated from participation in Medicare for failure to comply with the laws and regulation governing that program; or

(22) fails to obtain or maintain all licenses required by state or federal law to legally provide Medicaid services; or

(23) fails to repay or make arrangements for repayment of any identified Medicaid overpayments, or otherwise erroneous payments, as required by the State Plan, court order, or formal administrative hearing decision.

(24) The Department may sanction a Medicaid provider who has a current restriction, suspension, or probation from DOPL or another state's equivalent agency.

(25) The Provider Sanction Committee may sanction a provider for significant misconduct or substantial evidence of misconduct that creates a substantial risk of harm to the Medicaid program.

(26) If after review, the Provider Sanction Committee finds there is prior misconduct outlined in Section R414-22-3 or Section R414-22-4, the committee retains discretionary authority to not renew a provider agreement, to not reinstate a provider agreement, and to not enroll a provider until the provider has completed all requirements deemed necessary by the committee.

**R414-22-6. Imposition of Sanction.**

(1) Before the Department decides to impose a sanction, it shall notify the provider, in writing, of:

(a) the findings of any investigation by the Department, its agents, or the Bureau of Medicaid Fraud; and

(b) any possible sanctions the Department may impose.

(2) Providers shall have 30 days after the notice date to respond in writing to the findings of any investigation. A written request for additional time of less than 30 days may be granted by the Department for good cause shown.

(3) The ~~Department~~Provider Sanction Committee has the discretion to impose sanctions after receiving the provider's input.

(4) The ~~Department~~Provider Sanction Committee may consider the following factors when determining which sanction to impose:

- (a) seriousness of offense;
- (b) extent of offense;
- (c) history of prior violations of Medicaid or Medicare law;

(d) prior imposition of sanctions by the Department;

(e) extent of prior notice, education, or warning given to the provider by the Department pertaining to the offense for which the provider is being considered for sanction;

(f) adequacy of assurances by the provider that the provider will comply prospectively with Medicaid requirements related to the offense;

(g) whether a lesser sanction will be sufficient to remedy the problem;

(h) sanctions imposed by licensing boards or peer review groups and professional health care associations pertaining to the offense; and

(i) suspension or termination from participation in another governmental medical program for failure to comply with the laws and regulations governing these programs.

(5) When the Department decides to impose a sanction, it shall notify the provider at least ten calendar days before the sanction's effective date.

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment:** ~~[August 22, 2011]~~**2012**

**Notice of Continuation:** December 12, 2007

**Authorizing, and Implemented or Interpreted Law:** 26-1-5; 26-18-3(7)

**Human Services, Recovery Services  
R527-37  
Closure Criteria for Support Cases**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 36678

FILED: 08/21/2012

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to update the date of an incorporated Code of Federal Regulations (CFR) citation from 45 CFR 303.11, October 1, 2008, to 45 CFR 303.11, July 2, 2010.

**SUMMARY OF THE RULE OR CHANGE:** In Section R527-37-2, delete the CFR date reference "October 1, 2008" and add "July 2, 2010".

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** 45 CFR 303.11 and Section 62A-1-11 and Section 62A-11-107

**MATERIALS INCORPORATED BY REFERENCES:**

- ◆ Updates Case Closure Criteria, published by Office of Management and Budget, July 2, 2010

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There are no anticipated costs to the state budget because the change to the rule is only to update the CFR reference.

◆ **LOCAL GOVERNMENTS:** Administrative rules of the Office of Recovery Services/Child Support Services (ORS/CSS) do not apply to local government; therefore, there are no anticipated costs or savings for any local businesses due to this amendment.

♦ **SMALL BUSINESSES:** There are no anticipated costs for small businesses because the change to the rule is only to update the CFR reference.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs for persons because the change to the rule is only to update the CFR reference.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no costs as the change to the rule is only to update the CFR reference.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no fiscal impact to businesses as the change to the rule is only to update the CFR reference from "October 1, 2008" to "July 2, 2010".

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HUMAN SERVICES  
 RECOVERY SERVICES  
 515 E 100 S  
 SALT LAKE CITY, UT 84102-4211  
 or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 ♦ LeAnn Wilber by phone at 801-536-8950, by FAX at 801-536-8833, or by Internet E-mail at lwilber@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

AUTHORIZED BY: Mark Brasher, Director

**R527. Human Services, Recovery Services.  
 R527-37. Closure Criteria for Support Cases.  
 R527-37-1. Authority and Purpose.**

1. The Department of Human Services is authorized to create rules necessary for the provision of social services by Section 62A-1-111. The Office of Recovery Services is authorized to adopt, amend, and enforce rules as necessary by Section 62A-11-107.

2. The purpose of this rule is to provide the federal regulation that is incorporated by reference.

**R527-37-2. Closure Criteria for Support Cases.**

This rule establishes the criteria a support case must meet in order to be eligible for case closure under federal regulations. The Office of Recovery Services adopts the federal regulations as published in 45 CFR 303.11, [~~October 1, 2008~~July 2, 2010 ed., which are incorporated by reference.

**KEY: child support**

**Date of Enactment or Last Substantive Amendment:** [~~April 2, 2010~~2012

**Notice of Continuation: June 12, 2012**

**Authorizing, and Implemented or Interpreted Law:** 62A-11-107; 62A-1-111

**Human Services, Recovery Services  
 R527-253  
 Collection of Child Support Judgments**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 36679

FILED: 08/21/2012

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to add the purpose and authority and add "62A-11-107" to the Authorizing, and Implemented or Interpreted Law section at the end of the rule.

**SUMMARY OF THE RULE OR CHANGE:** This change adds the purpose and authority to Section R527-253-1 and rennumbers the subsequent section. Also added "62A-11-107" to the Authorizing, and Implemented or Interpreted Law section at the end of the rule.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 62A-11-107 and Section 62A-11-320

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There are no anticipated costs to the state budget because the change to the rule is only to add a purpose and authority section and a legal citation to the Authorizing, and Implemented or Interpreted Law section at the end of the rule.

♦ **LOCAL GOVERNMENTS:** Administrative rules of the Office of Recovery Services/Child Support Services (ORS/CSS) do not apply to local government; therefore, there are no anticipated costs or savings for any local governments due to this amendment.

♦ **SMALL BUSINESSES:** There are no anticipated costs for small businesses because the change to the rule is only to add a purpose and authority section and a legal citation to the Authorizing, and Implemented or Interpreted Law section at the end of the rule.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no costs for any individual because the change to the rule is only to add a purpose and authority section and a legal citation to the Authorizing, and Implemented or Interpreted Law section at the end of the rule.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no costs as the change to the rule is only to add a purpose and authority section and a legal citation to the Authorizing, and Implemented or Interpreted Law section at the end of the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact to businesses as the change to the rule is only to add a purpose and authority section and a legal citation to the Authorizing, and Implemented or Interpreted Law section at the end of the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HUMAN SERVICES  
 RECOVERY SERVICES  
 515 E 100 S  
 SALT LAKE CITY, UT 84102-4211  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ LeAnn Wilber by phone at 801-536-8950, by FAX at 801-536-8833, or by Internet E-mail at lwilber@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2015

AUTHORIZED BY: Mark Brasher, Director

**R527. Human Services, Recovery Services.  
 R527-253. Collection of Child Support Judgments.  
 R527-253-1. Purpose and Authority.**

1. The Office of Recovery Services (ORS) is authorized to create rules necessary for the provision of social services by Section 62A-11-107.

2. The purpose of this rule is to clarify that ORS has the authority to demand payment in full or to set or reset payment schedules to collect past-due support according to the interests of the state. It also provides a list of some of the legal remedies available to ORS to collect on a judgment.

**R527-253-2. Collection of Child Support Judgments.**

1. The Office of Recovery Services/Child Support Services (ORS/CSS) may demand and collect immediate payment in full, or may demand and collect payments that will result in payment in full within a period of time that is deemed to meet the interests of the state in child support judgment matters.

2. ORS/CSS may collect a child support judgment through income withholding, liens, tax refund intercepts, and any other legal remedy available. Initiation of a particular remedy shall not limit ORS/CSS from initiating any other remedy at the same time.

**KEY: administrative law, child support**  
**Date of Enactment or Last Substantive Amendment: [~~August 17, 1998~~2012**  
**Notice of Continuation: June 12, 2012**  
**Authorizing, and Implemented or Interpreted Law: 62A-11-107; 62A-11-320**

## Human Services, Recovery Services R527-255 Substantial Change in Circumstances

### NOTICE OF PROPOSED RULE

(Amendment)  
 DAR FILE NO.: 36680  
 FILED: 08/21/2012

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to update and correct the Utah Code reference from "78B-12-217 and 78B-12-218" to "78B-12-210".

SUMMARY OF THE RULE OR CHANGE: In Section R527-255-3, deletes the references "78B-12-217 and 78B-12-218" and adds "78B-12-210". Also deletes the references "78B-12-217 and 78B-12-218" and adds "78B-12-210" in the Authorizing, and Implement or Interpreted Law.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-11-107 and Section 62A-11-320.5 and Section 62A-11-320.6 and Section 78B-12-210

### ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: There are no anticipated costs to the state budget because the change to the rule is only to delete and update some Utah Code citations.

♦ LOCAL GOVERNMENTS: Administrative rules of the Office of Recovery Services/Child Support Services (ORS/CSS) do not apply to local government; therefore, there are no anticipated costs or savings for any local governments due to this amendment.

♦ SMALL BUSINESSES: There are no anticipated costs for small businesses because the change to the rule is only to delete and update some Utah Code citations.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs for persons because the change to the rule is only to delete and update some Utah Code citations.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs as the change to the rule is only to delete and update some Utah Code citations.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no costs as the change to the rule is only to delete and update some Utah Code citations.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ LeAnn Wilber by phone at 801-536-8950, by FAX at 801-536-8833, or by Internet E-mail at lwilber@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

AUTHORIZED BY: Mark Brasher, Director

**R527. Human Services, Recovery Services.**

**R527-255. Substantial Change in Circumstances.**

**R527-255-1. Authority and Purpose.**

1. The Office of Recovery Services is authorized to adopt, amend, and enforce rules as necessary by Section 62A-11-107.

2. The purpose of this rule is to provide information about when a parent can request a review of the child support amount when a support order is less than three years old, and to identify what must be included for a request for review to be complete. The rule also defines when a change in circumstance is considered temporary or permanent.

**R527-255-2. Request for Review based on Substantial Change in Circumstances.**

1. A parent may request a less than three year review of a support order based on an alleged substantial change in circumstances. For the request to be complete, the parent must provide documentation of the alleged change at his/her own expense.

**R527-255-3. Duration of the Change in Circumstances.**

1. If the change in circumstances is projected to be temporary, defined as less than 12 months in duration, the office shall not initiate proceedings to adjust the award.

2. If the change in circumstances is projected to be long term or permanent, defined as 12 months or more in duration, the office shall initiate proceedings to adjust the award pursuant to Section[s ~~78B-12-217 and 78B-12-218~~] 78B-12-210.

**KEY: child support**

**Date of Enactment or Last Substantive Amendment:** [~~August 13, 2008~~]2012

**Notice of Continuation:** June 12, 2012

**Authorizing, and Implemented or Interpreted Law:** 62A-11-107; [78B-12-217; 78B-12-218; ]62A-11-320.5; 62A-11-320.6; 78B-12-210

Human Services, Recovery Services  
**R527-330**  
Posting Priority of Payments Received

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 36681

FILED: 08/21/2012

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to add the purpose and authority section to the rule.

**SUMMARY OF THE RULE OR CHANGE:** This amendment adds the purpose and authority in the new Section R527-330-1 and renumbers the subsequent section.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 62A-11-107

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There are no anticipated costs to the state budget because the change to the rule is only to add a purpose and authority to the rule.

♦ **LOCAL GOVERNMENTS:** Administrative rules of the Office of Recovery Services/Child Support Services (ORS/CSS) do not apply to local government; therefore, there are no anticipated costs or savings for any local governments due to this amendment.

♦ **SMALL BUSINESSES:** There are no anticipated costs for small businesses because the change to the rule is only to delete a Utah Code Annotated references and add one new state law reference and two federal regulations, which support the office enforcing an order with a medical support provision.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs for other persons because the change to the rule is only to add a purpose and authority section to the rule.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no costs as the change to the rule is only to add a purpose and authority section to the rule.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no fiscal impact to businesses as the change to the rule is only to add a purpose and authority section to the rule.

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

HUMAN SERVICES  
RECOVERY SERVICES



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

Insurance, Administration  
**R590-142**  
 Continuing Education Rule

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ LeAnn Wilber by phone at 801-536-8950, by FAX at 801-536-8833, or by Internet E-mail at lwilber@utah.gov

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 36711  
 FILED: 08/31/2012

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

**RULE ANALYSIS**

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This year the Legislature passed H.B. 29, Insurance Amendments, in the 2012 General Session. At the request of representatives from the Utah bail bond industry, the law was changed to eliminate the requirement for bail bond producers to take continuing education (CE) classes in order to renew their bail bond license. This rule is being amended to reflect this change in the law. The change in being made in large part because there were no bail bond CE classes available.

AUTHORIZED BY: Mark Brasher, Director

**SUMMARY OF THE RULE OR CHANGE:** Sections R590-142-1, R590-142-2, and R590-142-4 are being changed to eliminate the reference to Section 31A-35-401.5 of the code requiring bail bond agents to take continuing education to renew their license.

**R527. Human Services, Recovery Services.**

**R527-330. Posting Priority of Payments Received.**

**R527-330-1. Purpose and Authority.**

1. The Office of Recovery Services (ORS) is authorized to create rules necessary for the provision of social services by Section 62A-11-107.

2. The purpose of this rule is to clarify that ORS must first apply support payments to current support obligations before applying the money to past-due arrears debts. It also establishes a method for posting payments when the obligor does not provide instructions for the payment and has more than one case.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 31A-2-201(3) and Subsection 31A-23a-202(1) and Subsection 31A-23a-202(5) and Subsection 31A-26-206(1)

**R527-330-2. Posting Priority of Payments Received.**

The Office of Recovery Services shall determine to which debt payment will be credited in instances where the obligor has more than one case, and the obligor has not expressed his intention.

For Child Support Services cases, if the obligor expresses intent, the payment shall be credited to the case indicated. When the obligor has not expressed his intention, the Office of Recovery Services/Child Support Services (ORS/CSS) shall pro-rate payments, other than payments received from the Federal tax refund intercept program, among all of the obligor's current support obligations. Once the current support obligations have been met, a payment shall be split equally among all of the obligor's child support cases with arrears.

A payment credited to a case with arrears shall be applied to the oldest debt, and arrears owed to the family shall be paid before arrears owed to the State according to the priority specified in 42 USC Sec. 657.

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** The change to this rule will have no effect on the department. The process of teaching and posting of completion notices to a student's license is all handled by the CE provider. The CE provider receives payment for the course. No money goes into the department or state's budget.

♦ **LOCAL GOVERNMENTS:** This rule does not impact local governments since it deals solely with the relationship between the department and their licensees.

♦ **SMALL BUSINESSES:** The elimination of the CE requirement will save producers the cost of a CE courses, which could be less than \$50 every 2 years for around 450 licensees. Sometimes agencies pay this expense for their producers.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The elimination of the CE requirement will save producers the cost of a CE courses, which could be less than \$50 every 2 years for around 450 licensees. Sometimes agencies pay this expense for their producers.

**KEY: child support, debt, public assistance programs**  
**Date of Enactment or Last Substantive Amendment:**  
~~[December 16, 1999]~~2012  
**Notice of Continuation: June 12, 2012**  
**Authorizing, and Implemented or Interpreted Law: 62A-11-107; 45 CFR 303.31; 45 CFR 303.32**

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The elimination of the CE requirement will save producers the cost of a CE courses, which could be less than \$50 every 2 years for around 450 licensees. Sometimes agencies pay this expense for their producers.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The elimination of the CE requirement for bail bond producers will eliminate the expense and time to take the course every two years. The expense for such courses is normally less than \$50.

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](mailto:jwhitby@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R590. Insurance, Administration.**

**R590-142. Continuing Education Rule.**

**R590-142-1. Authority.**

This rule is promulgated pursuant to:

(1) Subsection 31A-2-201(3) that authorizes the commissioner to adopt rules to implement the provisions of the Utah Insurance Code;

(2) Subsection 31A-23a-202(1) that authorizes the commissioner to adopt a rule to prescribe the continuation requirements for a producer and a consultant;

(3) Subsection 31A-23a-202(5) that authorizes the commissioner to adopt a rule to prescribe the processes and procedures for continuing education provider registration and course approval;

(4) Subsection 31A-26-206(1) that authorizes the commissioner to adopt a rule to prescribe the continuing education requirements for an adjuster; and

~~[(5) Subsection 31A-35-401.5 that authorizes the commissioner to adopt a rule to implement the continuing education requirement for renewal of a bail bond producer license; and~~

[(6)](5) Subsection 31A-30-209 that authorizes the commissioner to adopt a rule to implement the continuing education requirements for the defined contribution market.

**R590-142-2. Purpose and Scope.**

(1) The purpose of this rule is to implement the continuing education requirements of Sections 31A-23a-202, 31A-26-206, and 31A-35-401.5.

(2) This rule applies to all continuing education providers and individual producer, consultant, and adjuster licensees under Sections 31A-23a-202, 31A-26-206, and 31A-30-209~~], and 31A-35-401.5].~~

**R590-142-4. Continuing Education Requirements.**

A producer, consultant, and adjuster licensee shall comply with, and a continuing education provider shall be familiar with, the following continuing education requirements:

(1) the number of credit hours of continuing education insurance related instruction required to be completed biennially as a prerequisite to license renewal shall be in accordance with Sections 31A-23a-202, and 31A-26-206~~], and 31A-35-401.5];~~

(2) a licensee may obtain continuing education credit hours at any time during the two-year licensing period;

(3) not more than half of the total credit hours required shall be satisfied by courses provided by insurers;

(4) upon renewal of a license, no continuing education credit hours in excess of the number required to renew the license may be carried over or applied to any subsequent licensing period;

(5) a licensee shall attend a course in its entirety in order to receive credit for the course;

(6) a licensee may repeat a course for credit but will not be permitted to take a course for credit more than once in a license continuation period;

(7) a nonresident licensee who satisfies the licensee's home state's continuing education requirement is considered to have satisfied Utah's continuing education requirement; and

(8) a licensee with a professional designation may use the continuing education credit hours required to maintain the designation to satisfy the requirement of the commissioner if:

(a) the hours are sufficient to meet the current continuing education requirement described in Sections 31A-23a-202 and 31A-26-206; and

(b) the professional designation consists of one or more of the following:

(i) Accredited Customer Service Representative (ACSR);

(ii) Accredited Financial Examiner (AFE) or Certified Financial Examiner (CFE);

(iii) Accredited Insurance Examiner (AIE) or Certified Insurance Examiner (CIE);

(iv) Certified Financial Planner (CFP);

(v) Certified Insurance Counselor (CIC);

(vi) Certified Risk Manager (CRM);

(vii) Registered Employee Benefits Consultant (REBC);

(viii) Chartered Property Casualty Underwriter (CPCU)

with completion of the Continuing Professional Development (CPD) program; or

(ix) Certified Life Underwriter (CLU), Chartered Financial Consultant (ChFC) or Registered Health Underwriter (RHU) with completion of the Professional Achievement in Continuing Education (PACE) recertification program.

(9) A producer who solicits or sells a defined contribution plan in accordance with Section 31A-30-209 shall complete a

minimum of two hours of defined contribution continuing education that includes training on use of the Utah Health Exchange and premium assistance programs:

(a) prior to soliciting or selling a defined contribution plan; and

(b) during each subsequent two-year licensing period that the producer solicits or sells a defined contribution plan.

**KEY: insurance continuing education**

**Date of Enactment or Last Substantive Amendment:** [February 8, 2012]

**Notice of Continuation:** January 10, 2012

**Authorizing, and Implemented or Interpreted Law:** 31A-2-201; 31A-23a-202; 31A-26-206; 31A-35-401.5

**Insurance, Administration**  
**R590-266**  
**Utah Essential Health Benefits**  
**Package**

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 36708

FILED: 08/30/2012

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to designate an essential health benefits package in Utah as provided by Section 1302 of the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care Education Reconciliation Act of 2010 (ACA).

**SUMMARY OF THE RULE OR CHANGE:** As outlined in Section 31A-30-116, Utah has chosen to designate its own essential health benefits rather than accept a federal determination. On 08/16/2012, the Chairmen of the Legislature's Health System Reform Task Force notified the Insurance Commissioner that the Task Force had voted to recommend the Public Employees Health Program's (PEHP) Utah Basic Plus Plan as Utah's Essential Health Benefit Package for the purposes of the ACA. (DAR NOTE: A corresponding 120-day (emergency) rule is under DAR No. 36703 in this issue, September 15, 2012, of the Bulletin and is effective as of 08/30/2012.)

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 31A-30-116(3)(b)

**MATERIALS INCORPORATED BY REFERENCES:**

- ◆ Adds PEHP Utah Basic Plus 2012 Plan, published by Public Employees Health Plan (PEHP), 2012

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The requirements of this rule will increase rate and form filings to the department from 65 health insurers offering comprehensive health insurance products. The increase in filings will not increase the department or state's revenues, just increase the workload of the department and since the department does not have the fiscal appropriation to hire anyone for the additional workload it will have to be assimilated among current employees.

◆ **LOCAL GOVERNMENTS:** This rule will have no impact on local governments since it deals solely with the relationship between the department and their licensees.

◆ **SMALL BUSINESSES:** This rule will change the type of health insurance products agencies will offer to their clients. It may affect the cost of the health plan chosen by the small employers. If current plan does not meet the minimum requirements the premiums will more than likely increase to account for the increase in benefits.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule will impact 65 health insurers that sell insurance in Utah. Health insurers may need to develop new products, train their workforce and update their computer program. It may affect the cost of the health plan chosen by the large employer. If their current plan does not meet minimum requirements the premium of an approved plan will more than likely increase to account for the increase in benefits.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This rule will impact 65 health insurers that sell insurance in Utah. Health insurers may need to develop new products, train their workforce, and update their computer program.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Utah has chosen to designate its own essential health benefits rather than accept the federal determination. The benefits designated by the Health System Reform Task Force and myself were selected in order to maximize choice and minimize the premium impact on employers. Fiscal impacts for health insurers may be minimally dependent on their current plan designs.

**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](mailto:jwhitby@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 09/24/2012 11:00 AM, State Office Bldg (behind the Capitol), 450 N State St, Room B110, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R590. Insurance, Administration.**

**R590-266. Utah Essential Health Benefits Package.**

**R590-266-1. Authority.**

This rule is promulgated pursuant to Subsection 31A-30-116(3)(b) wherein the commissioner is directed to adopt a rule for purposes of designating the essential health benefits for Utah.

**R590-266-2. Purpose and Scope.**

(1) The purpose of this rule is to designate an essential health benefits package in Utah as provided by Section 1302 of the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care Education Reconciliation Act of 2010 (ACA).

(2) This rule applies to all non-grandfathered individual and small employer health benefit plans issued or renewed on or after January 1, 2014.

**R590-266-3. Definitions.**

In addition to the definitions in Sections 31A-1-301 and 31A-30-103, the following definitions shall apply for the purpose of this rule:

(1) "Essential health benefits" means the following health care service categories that must be included in non-grandfathered individual and small employer health benefit plans beginning January 1, 2014:

- (a) ambulatory patient services;
- (b) emergency services;
- (c) hospitalization;
- (d) maternity and newborn care;
- (e) mental health and substance use disorder services, including behavioral health treatment;
- (f) prescription drugs;
- (g) rehabilitative and habilitative services and devices;
- (h) laboratory services;
- (i) preventive and wellness services and chronic disease management; and
- (j) pediatric services, including oral and vision care.

(2) "Grandfathered health plan" means an individual or small employer health benefit plan that:

(a) was in existence when the ACA was enacted on March 23, 2010;

(b) has not had any significant changes that reduce benefits or increase costs to consumer including:

(i) a significant cut or reduction in benefits, such as excluding coverage for people with diabetes;

(ii) an increase in co-pays by more than \$5, adjusted annually for medical inflation, or a percentage equal to medical inflation plus 15%;

(iii) the employer reduces contributions by more than five percentage points; or

(iv) reducing annual dollar limits, or adding a new limit; and

(c) the insured has received notification from the carrier that their health benefit plan is a grandfathered plan.

(3) "Non-Grandfathered health plan" means an individual or small employer health benefit plan:

(a) that is issued after the ACA was enacted on March 23, 2010; or

(b) a grandfathered health plan that has made significant changes that reduce benefits or increase costs to consumers that has caused the plan to lose the grandfathered status as provided in (2) (b).

(4) "Utah Essential Health Benefits Package" means the benefits designated in this rule by the commissioner as essential health benefits in non-grandfathered plans for the purposes of the ACA in Utah.

**R590-266-4. Utah Essential Health Benefits.**

(1)(a) The commissioner hereby designates the PEHP Utah Basic Plus plan as the Utah Essential Health Benefits Package for purposes of the ACA in Utah.

(b) The PEHP Utah Basic Plus 2012 Plan as incorporated herein and available at <http://insurance.utah.gov/health/healthreform.html>.

(2)(a) Except as provided in Subsection (b), an individual or small employer carrier who issues or renews a non-grandfathered plan on or after January 1, 2014, must include at a minimum the benefits of the Utah Essential Health Benefits Package.

(b) A carrier may substitute coverage provided in the Utah Essential Health Benefits Package as long as substitutions are actuarially equivalent and complies with the standards set forth in 42 CFR 457.431.

(3) This rule does not prohibit an individual or small employer carrier from offering a non-grandfathered plan with benefits in addition to the Utah Essential Health Benefits Package.

**R590-266-5. Penalties.**

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

**R590-266-6. Enforcement Date.**

The commissioner will begin enforcing this rule January 1, 2014.

**R590-266-7. Severability.**

If any provision of this rule or its application to any person or circumstances is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances shall not be affected thereby.

**KEY: essential health benefit insurance**

**Date of Enactment or Last Substantive Amendment: 2012**

**Authorizing, and Implemented or Interpreted Law: 31A-30-116(3)(b)**

**Judicial Performance Evaluation  
Commission, Administration  
R597-3  
Judicial Performance Evaluations**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 36671

FILED: 08/16/2012

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The reason for the change is to remove outdated information and to add two provisions refining the data collection and reporting process.

**SUMMARY OF THE RULE OR CHANGE:** Sections of the rule that no longer apply are deleted. Two provisions are added, one reserving four months at the beginning of the retention cycle when no data is to be collected, and the other permitting only the content analysis of the courtroom observation reports to be included in the final retention report for each judge.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 78a-12-102 to 78a-12-206

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** Because the rule does not create any new programs but rather articulates requirements and procedures for existing programs, there is no anticipated cost or savings for the state budget.
- ◆ **LOCAL GOVERNMENTS:** Because the commission has no authority with respect to local government, there is no anticipated cost or savings to local government.
- ◆ **SMALL BUSINESSES:** Because the commission has no authority with respect to small businesses, there is no anticipated cost or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because the commission has no authority with respect to persons other than small businesses, businesses, or local government entities, there is not anticipated cost or savings to these entities.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The commission assumes all statutory compliance costs. Affected persons do not assume any compliance costs.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
JUDICIAL PERFORMANCE EVALUATION  
COMMISSION  
ADMINISTRATION  
ROOM B-330 SENATE BUILDING  
420 N STATE ST  
SALT LAKE CITY, UT 84114  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Joanne Slotnik by phone at 801-538-1652, by FAX at 801-538-1024, or by Internet E-mail at [jslotnik@utah.gov](mailto:jslotnik@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

AUTHORIZED BY: Anthony Schofield, Chair

**R597. Judicial Performance Evaluation Commission, Administration.**

**R597-3. Judicial Performance Evaluations.**

**R597-3-1. Evaluation Cycles.**

- (1) For judges not serving on the supreme court:
  - (a) The mid-term evaluation cycle. Except as provided in subsection (3) the mid-term evaluation cycle begins upon the appointment of the judge or on the first Monday in January following the retention election of the judge and ends 2 1/2 years later, on June 30th of the third year preceding the year of the judge's next retention election.
  - (b) The retention evaluation cycle. The retention evaluation cycle begins the day after the mid-term evaluation cycle is finished and ends two years later, on June 30th of the year preceding the year of the judge's next retention election.
- (2) For justices serving on the supreme court:
  - (a) The initial evaluation cycle. The initial evaluation cycle begins upon the appointment of the justice or on the first Monday in January following the retention election of the justice and ends 2 1/2 years later, on June 30th of the seventh year preceding the year of the justice's next retention election.
  - (b) The mid-term evaluation cycle. The mid-term evaluation cycle begins the day after the initial evaluation cycle is finished and ends four years later, on June 30th of the third year preceding the year of the justice's next retention election.
  - (c) The retention evaluation cycle. The retention evaluation cycle begins the day after the mid-term evaluation cycle is finished and ends two years later, on June 30th of the year preceding the year of the justice's next retention election.
- (3) Transition Evaluation Cycles
  - (a) ~~[For judges standing for retention election in 2012: (i) The mid-term evaluation cycle for attorney surveys shall begin on January 1, 2008 and end on December 31, 2009.~~

~~\_\_\_\_\_ (ii) The mid-term evaluation cycle for all other survey categories shall begin in 2009 and end on January 31, 2010.~~

~~\_\_\_\_\_ (iii) The retention evaluation cycle for all surveys shall begin no later than July 1, 2010, and end on June 30, 2011.~~

~~\_\_\_\_\_ (b) ]For judges not on the supreme court standing for retention election in 2014,[:~~

~~\_\_\_\_\_ (i) The mid-term evaluation cycle for surveys of attorneys and jurors shall begin in 2009 and finish on June 30, 2011.~~

~~\_\_\_\_\_ (ii) The mid-term evaluation cycle for all pilot program categories shall begin no later than July 1, 2010, and end on June 30, 2011.~~

~~\_\_\_\_\_ (iii) F] the retention evaluation cycle shall begin on June 1, 2012 and end on June 30, 2013.~~

~~\_\_\_\_\_ (e]b) For supreme court justices standing for retention election in 2014,[:~~

~~\_\_\_\_\_ (i) The mid-term evaluation cycle for surveys of attorneys shall begin in 2009 and end on June 30, 2011.~~

~~\_\_\_\_\_ (ii) The mid-term evaluation cycle for relevant pilot programs categories shall begin no later than July 1, 2010, and end on June 30, 2011.~~

~~\_\_\_\_\_ (iii) F] the retention evaluation cycle shall begin on June 1, 2012 and end on June 30, 2013.~~

~~\_\_\_\_\_ (d]c) For judges not on the supreme court standing for retention election in 2016:~~

~~\_\_\_\_\_ (i) Except as provided in subsection (3), the mid-term evaluation cycle shall begin on July 1, 2011 and end two years later on June 30, 2013.~~

~~\_\_\_\_\_ (ii) The retention evaluation cycle shall be as described in R597-3(1)(b), supra.~~

~~\_\_\_\_\_ (e]d) For supreme court justices standing for retention election in 2016:~~

~~\_\_\_\_\_ (i) The initial evaluation cycle shall be combined with the mid-term evaluation, beginning in 2009 and ending on June 30, 2013.~~

~~\_\_\_\_\_ (ii) The combined initial/mid-term evaluation cycle for surveys of attorneys shall begin in 2009 and end on June 30, 2013.~~

~~\_\_\_\_\_ (iii) The combined initial/mid-term evaluation cycle for relevant pilot programs categories shall begin no later than July 1, 2010.~~

~~\_\_\_\_\_ (iv) The retention evaluation cycle shall be as described in R597-3-1(2)(c).~~

~~\_\_\_\_\_ (4) Timing of evaluations within cycles. In order to allow judges time to incorporate feedback from midterm evaluations into their practices, no evaluations shall be conducted during the first four months of the retention cycle.~~

### **597-3-3. Courtroom Observation.**

#### (1) General Provisions.

(a) Courtroom observations shall be conducted according to the evaluation cycles described in R597-3-1(1) and (2), supra.

(b) The commission shall provide notice to each judge at the beginning of the survey cycle of the courtroom observation process and of the instrument to be used by the observers.

~~\_\_\_\_\_ (c) Only the content analysis of the individual courtroom observation reports shall be included in the retention report for each judge.~~

#### (2) Courtroom Observers.

##### (a) Selection of Observers

(i) Courtroom observers shall be volunteers, recruited by the commission through public outreach and advertising.

(ii) Courtroom observers shall be selected by the commission staff, based on written applications and an interview process.

(b) Selection Criteria. Observers with a broad and varied range of life experiences shall be sought. The following persons shall be excluded from eligibility as courtroom observers:

(i) persons with a professional involvement with the state court system, the justice courts, or the judge;

(ii) persons with a fiduciary relationship with the judge;

(iii) persons within the third degree of relationship with a state or justice court judge (grandparents, parents or parents-in-law, aunts or uncles, children, nieces and nephews and their spouses);

(iv) persons lacking computer access or basic computer literacy skills;

(v) persons currently involved in litigation in state or justice courts;

(vi) convicted felons;

(vii) persons whose background or experience suggests they may have a bias that would prevent them from objectively serving in the program.

#### (c) Terms and Conditions of Service

(i) Courtroom observers shall serve at the will of the commission staff.

(ii) Courtroom observers shall commit to one one-year term of service.

(iii) Courtroom observers may serve up to three one-year terms, subject to annual renewal at the discretion of the commission.

(iv) Courtroom observers shall not disclose the content of their courtroom evaluations in any form or to any person except as designated by the commission.

#### (d) Training of Observers

(i) Courtroom observers must satisfactorily complete a training program developed by the commission before engaging in courtroom observation.

(ii) Elements of the training program shall include:

(A) Orientation and overview of the commission process and the courtroom observation program;

(B) Classroom training addressing each level of court;

(C) In-court group observations, with subsequent classroom discussions, for each level of court;

(D) Training on proper use of observation instrument;

(E) Training on confidentiality and non-disclosure issues;

(F) Such other periodic trainings as are necessary for effective observations.

#### (3) Courtroom Observation Program.

##### (a) Courtroom Requirements

(i) During each midterm and retention evaluation cycle, a minimum of four different observers shall observe each judge subject to that evaluation cycle.

(ii) Each observer shall observe each judge in person while the judge is in the courtroom and for a minimum of two hours while court is in session. The observations may be completed in one sitting or over several courtroom visits.

(iii) If a judge sits in more than one geographic location at the judge's appointed level or a justice court judge serves in more

than one jurisdiction, the judge may be observed in any location or combination of locations in which the judge holds court.

(iv) When the observer completes the observation of a judge, the observer shall complete the observation instrument, which will be electronically transferred to the commission or the third party contractor for processing.

(b) Travel and Reimbursement

(i) All travel must be preapproved by the executive director.

(ii) All per diem and lodging will be reimbursed, when appropriate, in accordance with Utah state travel rules and regulations.

(iii) Travel reimbursement forms shall be submitted on a monthly basis or whenever the observer has accumulated a minimum of 200 miles of travel.

(iv) Travel may be reimbursed only after the observer has satisfactorily completed and successfully submitted the courtroom observation report for which the reimbursement is sought.

(v) Overnight lodging

(A) Overnight lodging is reimbursable when the courtroom is located over 100 miles from home base and court is scheduled to begin before 9:30 a.m., with any exceptions preapproved by commission staff.

(B) Multiple overnight lodging is reimbursable where the commission staff determines it is cost-effective to observe several courtrooms in a single trip.

(v) Each courtroom observer must provide a social security number or tax identification number to the commission in order to process state reimbursement.

(4) Principles and Standards used to evaluate the behavior observed.

(a) Procedural fairness, which focuses on the treatment judges accord people in their courts, shall be used to evaluate the judicial behavior observed in the courtroom observation program.

(b) To assess a judge's conduct in court with respect to procedural fairness, observers shall respond in narrative form to the following principles and behavioral standards:

(i) Neutrality, including but not limited to:

(A) displaying fairness and impartiality toward all court participants;

(B) acting as a fair and principled decision maker who applies rules consistently across court participants and cases;

(C) explaining transparently and openly how rules are applied and how decisions are reached.

(D) listening carefully and impartially;

(ii) Respect, including but not limited to:

(A) demonstrating courtesy toward attorneys, court staff, and others in the court;

(B) treating all people with dignity;

(C) helping interested parties understand decisions and what the parties must do as a result;

(D) maintaining decorum in the courtroom.

(E) demonstrating adequate preparation to hear scheduled cases;

(F) acting in the interests of the parties, not out of demonstrated personal prejudices;

(G) managing the caseload efficiently and demonstrating awareness of the effect of delay on court participants;

(H) demonstrating interest in the needs, problems, and concerns of court participants.

(iii) Voice, including but not limited to:

(A) giving parties the opportunity, where appropriate, to give voice to their perspectives or situations and demonstrating that they have been heard;

(B) behaving in a manner that demonstrates full consideration of the case as presented through witnesses, arguments, pleadings, and other documents.

(C) attending, where appropriate, to the participants' comprehension of the proceedings.

(c) Courtroom observers may also be asked questions to help the commission assess the overall performance of the judge with respect to procedural fairness.

**KEY: judicial performance evaluations, judges, evaluation cycles, surveys**

**Date of Enactment or Last Substantive Amendment: [June 1,] 2012**

**Authorizing, and Implemented or Interpreted Law: 78A-12**

## Labor Commission, Antidiscrimination and Labor, Antidiscrimination R606-3

### Nondiscrimination Clause to be used in Contracts Entered into by the State of Utah and its Agencies

#### NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 36690

FILED: 08/24/2012

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this filing is to repeal the existing Rule R606-3. The Labor Commission review of this rule has established that it is not authorized by statute and is not necessary.

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

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 34A-5-104 et seq.

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The repeal of this rule will not result in any additional enforcement costs or savings to the state budget. With respect to compliance costs, repeal of the rule may simplify state contracting processes, thereby resulting in some marginal savings in the cost of administering that process.

◆ LOCAL GOVERNMENTS: Repeal of this rule will not result in any costs to local government. However, repeal of the rule may simplify local government contracting processes, thereby resulting in some marginal savings in the cost of administering that process.

◆ SMALL BUSINESSES: The repeal of this rule will not result in any costs to small businesses. However, repeal of the rule may simplify the process of contracting with government entities, thereby resulting in some marginal savings to small businesses engaging in that process.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The repeal of this rule will not result in any costs to other persons. However, repeal of the rule may simplify the process of contracting with government entities, thereby resulting in some marginal savings to other persons engaging in that process.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The repeal of this rule does not impose any new or additional compliance costs on any entity. To the contrary, by simplifying the government contracting process, repeal of this rule will have some slight tendency to reduce the costs of contracting with government entities.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As part of Governor Herbert's directive that state agencies review all administrative rules, the Labor Commission has concluded that this rule is not authorized by statute and is not required. Elimination of the rule will eliminate an unnecessary requirement from the government-contracting process and should reduce the cost of that process for all parties.

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

LABOR COMMISSION  
ANTIDISCRIMINATION AND LABOR,  
ANTIDISCRIMINATION  
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:

◆ Alan Hennebold by phone at 801-530-6937, by FAX at 801-530-6390, or by Internet E-mail at ahennebold@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

AUTHORIZED BY: Sherrie Hayashi, Commissioner

**R606. Labor Commission, Antidiscrimination and Labor, Antidiscrimination.**

~~[R606-3. Nondiscrimination Clause to be used in Contracts Entered into by the State of Utah and its Agencies.~~

~~R606-3-1. Authority.~~

~~————— This rule is established pursuant to Section 34A-5-104.~~

~~**R606-3-2. Procedures and Prohibitions.**~~

~~————— A. In order to comply with the provisions of the Utah Antidiscrimination Act relating to prohibited employment practices, a contractor must do the following:~~

~~————— 1. The contractor will not discriminate against any employee or applicant for employment because of race, color, sex, age, religion, national origin, or disability.~~

~~————— 2. In all solicitations or advertisements for employees, the contractor will state that all qualified applicants will receive consideration without regard to race, color, sex, age, religion, national origin, or disability.~~

~~————— 3. The contractor will send to each labor union or workers' representative notices stating the contractor's responsibilities under the Act.~~

~~————— 4. The contractor will furnish such information and reports as requested by the Division for the purpose of determining compliance with the Act.~~

~~————— 5. The contractor will include the provisions of subsections 1-4 above in every subcontract or purchase order so that such provisions will be binding upon each subcontractor or vendor unless exempted by law.~~

~~————— B. Failure of the contractor to comply with the Act or the rules shall be deemed a breach of contract and the contract may be canceled, terminated, or suspended in whole or in part.~~

~~**KEY: discrimination, contractors, construction contracts**~~

~~**Date of Enactment or Last Substantive Amendment: 1990**~~

~~**Notice of Continuation: May 28, 2010**~~

~~**Authorizing, and Implemented or Interpreted Law: 34A-5-104 et seq.]**~~

**Labor Commission, Antidiscrimination  
and Labor, Antidiscrimination**

**R606-4**

**Advertising**

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 36691

FILED: 08/24/2012

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this filing is to repeal the existing Rule R606-4. The Labor Commission review of this rule establishes that the subject matter of the rule is already addressed by statute. Consequently, the rule is not necessary.



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

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 34A-5-101 et seq.

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** Since the subject matter of this rule is already addressed by statute, repeal of this rule will not result in any additional costs or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** Since the subject matter of this rule is already addressed by statute, repeal of this rule will not result in any additional costs or savings to local governments.
- ◆ **SMALL BUSINESSES:** Since the subject matter of this rule is already addressed by statute, repeal of this rule will not result in any additional costs or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Since the subject matter of this rule is already addressed by statute, repeal of this rule will not result in any additional costs or savings to other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Repeal of this rule does not add or eliminate any requirements and will not impose any additional compliance costs on any entity.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** As part of Governor Herbert's directive that state agencies review all administrative rules, the Labor Commission has concluded that the substance of this rule is already addressed by statute. Consequently, the rule is not required. Elimination of the rule will simplify the Labor Commission's administrative rules, but will not have any fiscal impact on businesses.

**THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:**  
 LABOR COMMISSION  
 ANTIDISCRIMINATION AND LABOR,  
 ANTIDISCRIMINATION  
 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:**  
 ◆ Kerry Chlarson by phone at 801-530-6921, by FAX at 801-530-7601, or by Internet E-mail at kchlaron@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012**

**THIS RULE MAY BECOME EFFECTIVE ON:** 12/22/2012

**AUTHORIZED BY:** Sherrie Hayashi, Commissioner

**R606. Labor Commission, Antidiscrimination and Labor, Antidiscrimination.**

~~[R606-4. Advertising.~~

~~R606-4-1. Authority.~~

~~————— This rule is established pursuant to Section 34A-5-104.~~

~~**R606-4-2. Procedures and Prohibitions.**~~

~~————— A. It is a violation of the Utah Antidiscrimination Act and of Title VII of the Civil Rights Act of 1964 for a help-wanted advertisement to indicate a preference, limitation, specification, or discrimination based on sex.~~

~~————— B. An exception to R606-4-2.A can be allowed based upon bona fide occupational qualification requirements. "Male" or "Female" designations, or readily understood abbreviations such as "M" or "F", may be used to indicate such preferential exception.~~

~~————— C. The Commission intends to review the operation of this guideline in the light of experience to ensure that male and female classifications in help-wanted advertising do not operate to limit employment opportunity.~~

~~**KEY: discrimination, advertising, employment**~~

~~**Date of Enactment or Last Substantive Amendment: 1990**~~

~~**Notice of Continuation: May 28, 2010**~~

~~**Authorizing, and Implemented or Interpreted Law: 34A-5-101 et seq.]**~~

**Labor Commission, Antidiscrimination  
 and Labor, Antidiscrimination  
 R606-5  
 Employment Agencies**

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 36692

FILED: 08/24/2012

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this filing is to repeal the existing Rule R606-5. The Labor Commission review of this rule establishes that the subject matter of the rule is already addressed by statute. Consequently, the rule is not necessary.

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

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 34A-5-104 et seq.

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** Since the subject matter of this rule is already addressed by statute, repeal of this rule will not result in any additional costs or savings to the state budget.

- ◆ LOCAL GOVERNMENTS: Since the subject matter of this rule is already addressed by statute, repeal of this rule will not result in any additional costs or savings to local governments.
- ◆ SMALL BUSINESSES: Since the subject matter of this rule is already addressed by statute, repeal of this rule will not result in any additional costs or savings to small businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Since the subject matter of this rule is already addressed by statute, repeal of this rule will not result in any additional costs or savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Repeal of this rule does not add or eliminate any requirements and will not impose any additional compliance costs on any entity.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As part of Governor Herbert's directive that state agencies review all administrative rules, the Labor Commission has concluded that the substance of this rule is already addressed by statute. Consequently, the rule is not required. Elimination of the rule will simplify the Labor Commission's administrative rules, but will not have any fiscal impact on businesses.

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

LABOR COMMISSION  
ANTIDISCRIMINATION AND LABOR,  
ANTIDISCRIMINATION  
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:

- ◆ Kerry Chlarson by phone at 801-530-6921, by FAX at 801-530-7601, or by Internet E-mail at kchlarson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

AUTHORIZED BY: Sherrie Hayashi, Commissioner

**R606. Labor Commission, Antidiscrimination and Labor, Antidiscrimination.**

~~[R606-5. Employment Agencies.~~

~~R606-5-1. Authority.~~

~~————— This rule is established pursuant to Section 34A-5-104.~~

~~R606-5-2. Procedures and Prohibitions.~~

~~————— A. An employment agency undertaking to fill a job order containing a specification regarding race, color, national origin, sex, age, religion, or disability will share responsibility with the~~

~~employer placing the job order if it is determined that the specification was not based upon a bona fide occupational qualification.~~

~~————— B. An exception to R606-5-2.A can be allowed in that an application form may ask "Male .....", "Female .....", or "Mr., Mrs., Miss" provided that the inquiry is made in good faith for a nondiscriminatory purpose and is based upon a bona fide occupational qualification.~~

~~KEY: discrimination, employment agencies, employment~~

~~Date of Enactment or Last Substantive Amendment: 1990~~

~~Notice of Continuation: May 28, 2010~~

~~Authorizing, and Implemented or Interpreted Law: 34A-5-104 et seq.]~~

Labor Commission, Industrial Accidents  
**R612-1-3**  
Official Forms

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 36686

FILED: 08/22/2012

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to clarify that there are now three forms for Restorative Services Authorizations in Utah's workers' compensation system; Form 221(a) Spine, 221(b) Upper Extremity, and 221(c) Lower Extremity.

SUMMARY OF THE RULE OR CHANGE: The rule change lists the three forms and corrects language to reflect the change from use of one general form to three more specific forms.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-1-104 et seq. and Section 34A-2-101 et seq. and Section 34A-3-101 et seq. and Section 63G-4-102 et seq.

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There would neither be a cost nor savings since this amendment simply establishes more-specific authorization forms.

- ◆ LOCAL GOVERNMENTS: There would neither be a cost nor savings since this amendment simply establishes more-specific authorization forms.

- ◆ SMALL BUSINESSES: There would neither be a cost nor savings since this amendment simply establishes more-specific authorization forms.

- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There would neither be a cost nor savings since this

amendment simply establishes more-specific authorization forms.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** None-- This amendment will replace the existing form 122, which has been used for all types of restorative services, with three more specialized forms that address specific types of injuries. These new forms are available at no cost and will not impose any additional reporting requirements or compliance costs on affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** By replacing the existing form 122 with more-specialized forms that apply to particular injuries, the Commission anticipates that the forms will provide better information at the same time they are more user-friendly. The Commission does not expect this change to have any fiscal impact on businesses.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Ron Dressler by phone at 801-530-6841, by FAX at 801-530-6804, or by Internet E-mail at rdressler@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

AUTHORIZED BY: Sherrie Hayashi, Commissioner

**R612. Labor Commission, Industrial Accidents.**

**R612-1. Workers' Compensation Rules - Procedures.**

**R612-1-3. Official Forms.**

A. "Employer's First Report of Injury - Form 122" - This form is used for reporting accidents, injuries, or occupational diseases as per Section 34A-2-407. This form must be filed within seven days of the occurrence of the alleged industrial accident or the employer's first knowledge or notification of the same. This form also serves as OSHA Form 301. The employer must report all injuries, other than first aid administered on site or at an employer sponsored free clinic, to the Industrial Accident Division and to the insurance carrier. First aid treatment is defined as:

- a. non-prescription medications at non-prescription strength;
- b. administering tetanus immunizations;
- c. cleaning, flushing, or soaking wounds on the skin surface;

d. using wound coverings, such as bandages, Band Aid (TM), gauze pads, etc., or using SteriStrips (TM) or butterfly bandages;

e. using hot or cold therapy (limited to hot or cold packs, contrast baths and paraffin);

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

g. using temporary immobilization devices while transporting an accident victim (splints, slings, neck collars, or back boards);

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

i. using eye patches; using simple irrigation or a cotton swab to remove foreign bodies not embedded in or adhered to the eye;

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

k. using finger guards;

l. using massages;

m. drinking fluids to relieve heat stress;

First aid, as defined above, is limited to a one-time visit and one subsequent follow up visit within a 7 day time period. (This does not apply to reporting it on OSHA's 300 log). However, if first aid treatment is given by a licensed health professional in an employer sponsored free clinic then two subsequent visits within a 14 consecutive day time period are allowed. The employer must maintain the employer's injury report (Form 122) and health records on site for first aid treatment.

First aid, as defined in a through m, does not include any work injuries resulting in:

- i) loss of consciousness;
- ii) loss of work;
- iii) restriction of work; or
- iv) transfer to another job.

B. "Physician's Initial Report of Work Injury or Occupational Disease - Form 123" - This form is used by physicians and chiropractors to report their initial treatment of an injured employee. This form must be completed when a bill is generated for treatment administered by a licensed health care provider, as defined in 34A-2-11. This form is also to be completed by the health care provider if treatment, beyond first aid, is given at an employer sponsored free clinic. The form must be cosigned by the supervising physician, unless the form is completed by a nurse practitioner.

C. "Restorative Services Authorization - Forms 221(a) Spine, 221(b) Upper Extremity, and 221(c) Lower Extremity~~[-221]~~" - ~~[This]~~These forms ~~[is]~~are to be used by any medical provider billing under the restorative services section of the Commission's adopted Resource-Based Relative Value Scale and the Medical Fee Guidelines. The medical provider shall file ~~[this]~~the appropriate form with the insurance carrier or self-insured employer and the division within ten days of the initial evaluation. After the initial filing, an updated Restorative Services Authorization form must be filed for approval or denial at least every six visits until a fixed state of recovery has been reached.

D. "Statement of Insurance Carrier or Self-Insurer with Respect to Payment of Benefits - Form 141" - This form is used for reporting the initial benefits paid to an injured employee. This form

must be filed with or mailed to the division on the same date the first payment of compensation is mailed to the employee. A copy of this form must accompany the first payment.

E. "Employee Notification of Denial of Claim - Form 089" - This form is used by insurance carriers or self-insured employers to notify the claimant that his or her claim, in whole or part, is denied and the reason(s) why the claim is being denied. An insurance carrier or self-insured employer shall complete its investigation within 45 days of receipt of the claim and shall commence the payment of benefits or notify the claimant and the division in writing that the claim, in whole or part, is denied.

F. "Insurance Carriers/ Self-Insurer's Notice of Further Investigation of a Workers' Compensation Claim - Form 441" - This form is used by insurance carriers or self-insured employers to notify the claimant and the commission that further investigation is needed and the reasons for further investigation. This form or letter containing similar information is to be filed within 21 days of notification of claim that further investigation is needed.

G. "Statement of Insurance Carrier or Self-Insurer with Respect to Suspension of Benefits - Form 142" - This form is to be used by insurance carriers or self-insured employers to notify an employee of the suspension of weekly compensation benefits. The form must be mailed to the employee and filed with the division five days before the date compensation is suspended. The insurance carrier or self-insured employer must specify the reason for the suspension of benefits.

H. "Application for Hearing - Form 001" - Used by an applicant for instituting an industrial claim against an insurance carrier, self-insured employer, or uninsured employer. This form, obtainable from the division, must be filed and signed by the injured employee or his/her agent. All blanks must be completed to the best knowledge, belief, or information of the injured employee.

I. "Claim for Dependents' Benefits and/or Burial Benefits - Form 025" - This form is used by the dependent(s) of a deceased employee to seek benefits as a result of a fatal accident or occupational disease occurring in the course of employment.

1. This form must be filed before a hearing or an award is made, and pleadings will not be accepted in lieu thereof. If pleadings are submitted, the attorney so filing will be supplied the form for filing before any proceedings are initiated.

2. The filing of this form by the surviving spouse on behalf of the surviving spouse and the surviving spouse's dependent minor children is sufficient for all dependents.

3. Unless otherwise directed by an Administrative Law Judge, the following information shall be supplied before an Order or an Award is made:

(a) A certified copy of the marriage license and birth certificates of dependent minor children. If such evidence is not readily available, the Administrative Law Judge will determine the adequacy of substitute evidence.

(b) Adoption papers or other decrees of courts of record establishing legal responsibility for support of dependent children.

(c) If either the deceased employee or surviving spouse has been involved in divorce proceedings, copies of decrees and orders of the court should be supplied.

J. "Insurance Company's and Self-Insurer's Final Report of Injury and Statement of Total Losses - Form 130" - This form is used by insurance carriers and self-insurers to report the total losses occurring in a claim for any benefits. This form must be filed with

the division as soon as final settlement is made but in no event more than 30 days from such settlement. This form shall be filed for all losses including medical only, compensation, survivor benefits, or any combination of all so as to provide complete loss information for each claim.

K. "Dependents' Benefit Order - Form 151" - This form is used by the division in all accidental death cases where no issue of liability for the death or establishment of dependency is raised and only one household of dependents is involved. The carrier indicates acceptance of liability by completing the top half of the form and filing it with the division.

L. "Medical Information Authorization - Form 046" - This form is used to release the applicant's medical records to the Commission or the chairman of a medical panel appointed by an Administrative Law Judge.

M. "Application to Change Doctors - Form 102" - This form must be used by the employee pursuant to the provisions of Rule R612-2-9 as contained herein.

N. "Employee's Notification of Intent to Leave Locality or State, and to Change Doctor or Hospital - Form 044" - As per Section 34A-2-604, this form is used by the employee and must be accompanied by the "Attending Physician's Statement - Form 043" before Commission approval can be granted. Otherwise, compensation may not be allowed.

O. "Attending Physician's Statement - Form 043" - This form must be completed by employee and his last attending physician in the state to establish the medical condition of the employee. It must be accompanied by Form 044.

P. "Compensation Agreement - Form 219" - This form is used by the parties to a workers' compensation claim to enter into an agreement as to a permanent partial impairment award, and must be submitted to the Division of Industrial Accidents for approval.

Q. "Application for Lump Sum or Advance Payment - Form 134" - This form is used by an employee to apply for a lump sum or advance payment for a permanent partial impairment award.

R. "Release to Return to Work - Form 110" - This form may be used to meet the requirements of Rule R612-2-3(D), as contained herein.

S. "Request for Copies From Claimant's File - Form 205" - This form is used to request copies from a claimant's file in the Commission with the appropriate authorized release.

T. Reemployment Program Forms

1. "Initial Assessment Report - Form 206" - This form is completed either by the self-insured employer, the workers' compensation insurance provider, or by a rehabilitation agency contracted by the employer/carrier. The report contains claimant demographics and insurance coverage details, and addresses the issue of need for vocational assistance.

2. "Request for Decision of Administrative Review - Form 207" - This form is completed when the employee wishes to contest the information/decision made by the carrier or rehabilitation agency.

3. "U.S.O.R. Rehabilitation Progress Report - Form 208A" - This form shall be requested from the Utah State Office of Rehabilitation at each stage of the reemployment process (eligibility determination, reemployment plan development/implementation and case closure) or at any interruption of the process. An Individualized Written Rehabilitation Program (USOR 5 IWRP) shall also be requested when a plan is developed. All other private

rehabilitation providers shall submit a Form 206 for any plan progress, postponement, or interruption in the plan.

4. "Reemployment Plan - Form 209" - This form is used for either an original or amended work plan. The form contains the details and estimated costs in returning the injured worker to the work force.

5. "Reemployment Plan Closure Report - Form 210" - This form is submitted to the division upon completion of the reemployment plan. The closure report shall detail costs by category either by dollar amounts or time expended (only in the categories of evaluation and counseling). The report shall also contain all the details on the return to work.

6. "Application for Certification as a Reemployment Provider - Form 212" - This form is completed by rehabilitation providers who wish to be certified by the division. It contains provider demographics, Utah staff credentials, services/fees, and references.

7. "Administrative Review Determination - Form 213" - This form is used by the division to summarize the outcome of the administrative review.

U. "Medical Records - Copies - Form 302" - This form is used by a claimant to request a free copy of his/her medical records from a medical provider. This form must be signed by a staff member of the division.

V. The division may approve change of any of the above forms upon public notice. Carriers may print these forms or approved versions.

**KEY: workers' compensation, time, administrative procedures, filing deadlines**

**Date of Enactment or Last Substantive Amendment: [~~July 2, 2005~~2012]**

**Notice of Continuation: June 19, 2012**

**Authorizing, and Implemented or Interpreted Law: 34A-2-101 et seq.; 34A-3-101 et seq.; 34A-1-104 et seq.; 63G-4-102 et seq.**

## Labor Commission, Industrial Accidents **R612-3-4** Qualifying Requirements

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36685

FILED: 08/22/2012

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule amendment eliminates letters of credit as a method by which self-insured employers can secure their liability for payment of workers' compensation benefits.

**SUMMARY OF THE RULE OR CHANGE:** The amendment deletes references to letters of credit as an acceptable method for self-insured employers to guarantee their ability to pay workers' compensation benefits to employees who suffer

work-related injuries. The amendment has no effect on the other types of security currently allowed by the rule.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 34A-1-104 and Section 34A-2-201

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The proposed amendment will simplify the Industrial Accidents Division's administration of the workers' compensation self-insurance program, but will result in no appreciable costs or savings to that program. Because the State of Utah obtains its workers' compensation coverage from an insurance carrier, rather than through self-insurance, the proposed amendment will have no effect on the state's workers' compensation insurance costs.

◆ **LOCAL GOVERNMENTS:** No self-insured local governments use letters of credit to secure payment of their workers' compensation liabilities. Consequently, eliminating letters of credit as one of the permitted forms of security will result in no cost or savings to local governments.

◆ **SMALL BUSINESSES:** No small businesses use letters of credit to secure payment of their workers' compensation liabilities. Consequently, eliminating letters of credit as one of the permitted forms of security will result in no cost or savings to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** As with local governments and small businesses, no other persons use letters of credit to secure payment of their workers' compensation liabilities. Consequently, eliminating letters of credit as one of the permitted forms of security will result in no cost or savings to such other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Because letters of credit are not currently used in the self-insurance program, this amendment will impose no compliance costs on affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The Industrial Accidents Division's experience over the last several years has shown that self-insured employers do not choose to use letters of credit as a means of securing their liability for workers' compensation payments. Consequently, elimination of that disfavored form of security will have no fiscal impact on business.

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

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Ron Dressler by phone at 801-530-6841, by FAX at 801-530-6804, or by Internet E-mail at [rdressler@utah.gov](mailto:rdressler@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

AUTHORIZED BY: Sherrie Hayashi, Commissioner

**R612. Labor Commission, Industrial Accidents.**

**R612-3. Workers' Compensation Rules - Self-Insurance.**

**R612-3-4. Qualifying Requirements.**

A. To qualify, an employer must be in business for a period of not less than five years and shall demonstrate sufficient financial strength and liquidity of the business to assure that all obligations will be promptly met. An employer in business less than five years will be considered only if a pre-existing parent corporation (in business more than five years) guarantees the liability. In cases of merger or name identification change, the history of the pre-existing entity will be considered for the five year requirement. Upon applying for self-insurance privileges, the applicant must forward a current, certified financial statement or other proof of financial ability to pay direct compensation and other expenses as provided by Section 34A-2-201. Mergers occurring after an entity is self-insured will require a new application by the merged entity. However, entities whose financial information can be obtained from Dunn and Bradstreet will not be required to file financial statements unless clarification or supplemental statements are deemed appropriate or necessary.

B. Specific or aggregate excess insurance with policy limits and retention amounts acceptable are required as a condition of approval and continuation of self-insurance privileges.

C. Excess Insurance policies shall include a bankruptcy and insolvency endorsement (Form 303) for each self-insured entity. The endorsement adds the Uninsured Employer's Fund to the excess insurance policy and specifies the conditions of the Utah bankruptcy and insolvency endorsement for individual self-insureds.

D. A minimum \$100,000 surety bond~~[-or an irrevocable letter of credit shall be required of each self-insurer].~~

E. No corporate surety shall be eligible to write self-insurers' surety bonds or excess insurance unless authorized to transact such business in this state.

F. Surety bonds must be issued on a prescribed form entitled "Self-Insurance Aggregate Surety Bond" and shall be exchanged or replaced with another surety bond only if a 60 day notice of termination of liability is given by the bonding company. The replacement bond must be issued on a form as prescribed by the Commission. No replacements will be authorized by the Commission unless the new surety accepts the liability of the previous surety(ies) or a guarantee is filed by both (all) sureties acknowledging their respective liabilities and periods of time covering such liabilities.

~~[-----G. Irrevocable Letters of Credit (ILOC) (Form 304).~~

~~1. Information - Irrevocable Letter of Credit.~~

~~The division may accept an ILOC as an alternative security deposit to a surety bond. However, the division will retain discretion to determine if, in each particular case, an ILOC is an~~

~~acceptable deposit, if the bank issuing is acceptable, and if the ILOC's format is satisfactory.~~

~~2. The ILOC must be issued by a Utah state chartered bank or a federally chartered bank with a Utah branch office from which funds will be immediately payable on demand. The bank used must be on the list of banks authorized to hold public funds by the Money Management Council of the State of Utah. The employer must furnish a memorandum of understanding with the Irrevocable Letter of Credit on a form provided by the division, which advises the following:~~

~~(a) The ILOC is being furnished to the division to provide for workers' disability compensation in lieu of a surety bond as one of the requirements for approval of a self-insurance program.~~

~~(b) The employer understands that the ILOC shall be deemed automatically extended without amendment for one year from the expiry date or any future expiry date, unless 60 days prior to any expiry date, the division is notified by registered mail that the ILOC shall not be renewed for any additional period. A policy of insurance or a surety bond of equal amount may be furnished as a substitute for an ILOC, however, the substitute must cover industrial injuries incurred during the period that the ILOC was effective. All policies of insurance and surety bonds furnished as substitutes for ILOC shall be subject to prior division approval.~~

~~(c) The employer shall affirm that the ILOC in the amount requested by the division is being offered with the understanding that if the division receives notice that the ILOC shall not be renewed, the division may, after 30 days from the receipt date of notice, call the proceeds of the ILOC and deposit those proceeds in the state treasury, and further, if in the judgment of the division, the ILOC is needed to cover any workers' disability compensation claims, that the proceeds of the ILOC shall be called immediately without waiting 30 days.~~

~~(d) In the event that the division draws upon the ILOC, the Employer must provide or make available all of its files and records associated with workers' compensation.~~

~~(e) If legal proceedings are initiated by any party with respect to payment of any ILOC, it is agreed that such proceedings shall be subject to Utah courts and law.~~

~~(f) The completed ILOC together with the memorandum of understanding must be furnished to and accepted by the division before an effective date will be granted for a self-insurance program.~~

~~3. The ILOC shall be issued with the language as required on the Industrial Accidents Division form 304.~~

~~4. Each self-insured entity shall sign a division prescribed Memorandum of Understanding (Form 305), which shall not become effective until certification is granted, when using an Irrevocable Letter of Credit as a form of security.~~

~~[H]G. All subsidiary companies must have the parent company guarantee liability for payment of benefits (unless such requirement is waived by the division). The form and substance of such guarantees are to be approved by the division.~~

~~[H]H. The division may utilize services such as Dunn and Bradstreet credit ratings for the purpose of evaluating a company's financial ability to pay.~~

~~[H]I. Entities that fall within the top two composite credit appraisal ratings by Dunn and Bradstreet (or information from an equivalent service) and their top two ratings on estimated financial~~

strength may qualify for self-insurance in Utah with the minimum requirements as set forth in Rule R612-3-4C. Companies with a 5A or 4A estimated financial strength rating and falling within the fair composite credit appraisal of Dunn and Bradstreet may qualify for self-insurance with higher security requirements as determined by the division. The provisions herein are to be construed as optional, with the division having the option.

[K]L. Self-insured entities, or their parent company if such is a guarantor, that fall below either the 5A or 4A estimated financial strength rating or the top three composite credit appraisal ratings of Dunn and Bradstreet will not be allowed to self-insure. A company already self-insured that falls in the aforementioned disqualifying categories will not be allowed to continue self-insurance privileges. However, at the discretion of the division continuation of self-insurance will be considered if the following steps are taken:

1. An independent actuarial study satisfactory to the division and the employer is made of the reserve requirements of the self-insured entity, said study to be at the employer's expense. Selection of the actuary will be mutually agreed upon by the division and the employer. However, should the parties fail to agree, the division will make the final selection.

2. Satisfactory security is obtained for the reserves plus the aggregate excess retention amount.

3. Any company whose self-insurance privileges are revoked under the provisions of these rules will be required to obtain security for their reserve requirements under the foregoing two step process regardless of whether or not self-insurance privileges are continued.

4. Companies whose privileges are to be revoked will be allowed 60 days from notice to comply with steps 1 through 3 above.

5. Quarterly financial reviews will be taken of entities which retain their self-insurance privileges by following 1, 2, and 3 above.

[L]K. Security requirements for all entities requiring security will be determined by a review of past incurred losses and application of exposure, loss, and contingency factors. The minimum acceptable bond amount is \$100,000.

[M]L. Public and eleemosynary entities are classified as special categories requiring separate consideration for self-insurance privileges and security requirements.

**KEY: self insurance plans, workers' compensation, benefits**  
**Date of Enactment or Last Substantive Amendment:**  
~~1992~~2012  
**Notice of Continuation: April 28, 2008**  
**Authorizing, and Implemented or Interpreted Law: 34A-1-104;**  
**34A-2-201**

**Natural Resources; Oil, Gas and  
 Mining; Oil and Gas  
 R649-3-39  
 Hydraulic Fracturing**

**NOTICE OF PROPOSED RULE  
 (Amendment)**

**DAR FILE NO.: 36700  
 FILED: 08/30/2012**

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this section is to address the public concerns related to the recovery of oil and gas via use of hydraulic fracturing. The addition of this rule section will improve accountability and transparency of the oil and gas industry via the disclosure of chemical in fluids used in hydraulic fracturing of wells during drilling, and demonstrate the related wellbore integrity and fluid management standards.

**SUMMARY OF THE RULE OR CHANGE:** This rule section requires an oil and gas well operator to disclose the amount and type of chemicals used in a hydraulic fracturing operation. The rule also addresses well bore integrity and management of flowback water with surface protection in the oil and gas rules. The Division requested voluntary compliance of chemical disclosure on 02/28/2012, and the majority of well operators so performed.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 40-6-5(3)

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** Well operators will provide the chemical disclosure on the FracFocus website, as required in other states with oil and gas production. Operators will continue to conduct well operations in accordance with rules for wellbore integrity and management of fluids. The Division may likely address questions from the public concerning the chemical disclosure and have support staff determine compliance to report, but no added staffing and expenses are anticipated.

♦ **LOCAL GOVERNMENTS:** Local government is not impacted by this rule because oil and gas well operators in Utah are the parties that are regulated by this rule.

♦ **SMALL BUSINESSES:** Over 96% of the oil and gas wells permitted in 2012 in Utah pertain to businesses larger than small business, thus the reporting requirement impact applies to less than 4% of the wells.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Persons other than small businesses, businesses, or local government entities are not impacted by this rule, since the rule impacts oil and gas well operators in Utah.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Well operators will be required to provide the chemical disclosure on the FracFocus website rather than voluntarily. Operators will continue to conduct well operations in accordance with rules for wellbore integrity and management of fluids. Research indicates at least 56% of completed wells are

already reported to FracFocus, so the impact from mandatory reporting will affect 44% or less of the new wells. No new data will be required to be obtained, but existing fracturing data will be input into the FracFocus database by the operator's support staff. Industry associations at the 08/22/2012 Board meeting have orally agreed to the FracFocus reporting.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will not require well operators to obtain new data, but the rule will require data entry of existing hydraulic fracturing data for the minority of wells in Utah that are not voluntarily reported by well operators.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
NATURAL RESOURCES  
OIL, GAS AND MINING; OIL AND GAS  
ROOM 1210  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at steveschneider@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:  
♦ 09/26/2012 09:00 AM, DNR, 1594 W North Temple, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 10/24/2012

AUTHORIZED BY: John Baza, Director

**R649. Natural Resources; Oil, Gas and Mining; Oil and Gas.  
R649-3. Drilling and Operating Practices.  
R649-3-39. Hydraulic Fracturing.**

1. Chemical disclosure.
  - 1.1. The amount and type of chemicals used in a hydraulic fracturing operation shall be reported to [www.fracfocus.org](http://www.fracfocus.org) within 60 days of hydraulic fracturing completion for public disclosure.
2. Wellbore integrity.
  - 2.1. The operator shall comply with R649-3-8, Casing Program.
    1. The method of cementing casing in the hole shall be by pump and plug method, displacement method, or other method approved by the division.
    2. When drilling in wildcat territory or in any field where high pressures are probable, the conductor and surface strings of casing must be cemented throughout their lengths, unless another

procedure is authorized or prescribed by the division, and all subsequent strings of casing must be securely anchored.

3. In areas where the pressures and formations to be encountered during drilling are known, sufficient surface casing shall be run to:

3.1. Reach a depth below all known or reasonably estimated, utilizable, domestic, fresh water levels.

3.2. Prevent blowouts or uncontrolled flows.

4. The casing program adopted must be planned to protect any potential oil or gas horizons penetrated during drilling from infiltration of waters from other sources and to prevent the migration of oil, gas, or water from one horizon to another.

2.2. The operator shall comply with R649-3-9, Protection of Upper Productive Strata.

1. No well shall be deepened for the purpose of producing oil or gas from a lower stratum until all upper productive strata are protected, either permanently by casing and cementing or temporarily through the use of tubing and packer, to the satisfaction of the division.

2. In any well that appears to have defective, poorly cemented, or corroded casing that will permit or may create underground waste or may contaminate underground or surface fresh water, the operator shall proceed with diligence to use the appropriate method and means to eliminate such hazard of underground waste or contamination of fresh water. If such hazard cannot be eliminated, the well shall be properly plugged and abandoned.

3. Natural gas that is encountered in substantial quantities in any section of a drilled hole above the ultimate objective shall be shut off with reasonable diligence, either by mudding, casing or other approved method, and shall be confined to its original source to the satisfaction of the division.

2.3. The operator shall comply with R649-3-13, Casing Tests.

1. In order to determine the integrity of the casing string set in the well, the operator shall, unless otherwise requested by the division, perform a pressure test of the casing to the pressures specified under R649-3-7.4 before drilling out of any casing string, suspending drilling operations, or completing the well.

2.4. The operator shall comply with R649-3-6, Drilling Operations.

1. Drilling operations shall be conducted according to the drilling program submitted on the original APD and as approved by the division. Any change of plans to the original drilling program shall be submitted to the division by using Form 9, Sundry Notices and Reports on Wells and shall receive division approval prior to implementation. A change of plans necessary because of emergency conditions may be implemented without division approval. The operator shall provide the division with verbal notice of the emergency change within 24 hours and written notice within five days.

2. An operator of a drilling well as designated in R649-2-4 shall comply with reporting requirements as follows:

2.1. The spudding in of a well shall be reported to the division within 24 hours. The report should include the well name and number, drilling contractor, rig number and type, spud date and time, the date that continuous drilling will commence, the name of the person reporting the spud, and a contact telephone number.



2.2. The operator shall file Form 6, Entity Action Form with the division within five working days of spudding in a well. The division will assign the well an entity number that will identify the well on the operator's monthly oil and gas production and disposition reports.

2.3. The operator shall notify the division 24 hours in advance of all testing to be performed on the blowout preventer equipment on a well.

2.4. The operator shall submit a monthly status report for each drilling well on Form 9, Sundry Notices and Reports on Wells. The report should include the well depth and a description of the operations conducted on the well during the month. The report shall be submitted no later than the fifth day of the following calendar month until such time as the well is completed and the well completion report is filed.

2.5. The operator shall notify the division 24 hours in advance of all casing tests performed in accordance with R649-3-13.

2.6. The operator shall report to the division all fresh water sand encountered during drilling on Form 7, Report of Water Encountered During Drilling. The report shall be filed with Form 8, Well Completion or Recompletion Report and Log.

2.5. The operator shall comply with R649-3-7, Well Control.

1. When drilling in wildcat territory, the owner or operator shall take all reasonably necessary precautions for keeping the well under control at all times and shall provide, at the time the well is started, proper high pressure fittings and equipment. All pressure control equipment shall be maintained in good working condition at all times.

2. In all proved areas, the use of blowout prevention equipment "BOPE" shall be in accordance with the established and approved practice in the area. All pressure control equipment shall be maintained in good working condition at all times.

3. Upon installation, all ram type BOPE and related equipment, including casing, shall be tested to the lesser of the full manufacturer's working pressure rating of the equipment, 70% of the minimum internal yield pressure of any casing subject to test, or one psi/ft of the last casing string depth. Annular type BOPE are to be tested in conformance with the manufacturer's published recommendations. The operator shall maintain records of such testing until the well is completed and will submit copies of such tests to the division if required.

4. In addition to the initial pressure tests, ram and annular type preventers shall be checked for physical operation each trip. All BOPE components, with the exception of an annular type blowout preventer, shall be tested monthly to the lesser of 50% of the manufacturer's rated pressure of the BOPE, the maximum anticipated pressure to be contained at the surface, one psi/ft of the last casing string depth, or 70% of the minimum internal yield pressure of any casing subject to test.

5. If a pressure seal in the assembly is disassembled, a test of that seal shall be conducted prior to the resumption of any drilling operation. A shell test of the affected seal shall be adequate. If the affected seal is integral with the BOP stack, either pipe or blind ram, necessitating a test plug to be set in order to test the seal, the division may grant approval to proceed without testing the seal if necessary for prudent operations.

6. All tests of BOPE shall be noted on the driller's log, IADC report book, or equivalent and shall be available for examination by the director or an authorized agent during routine inspections.

7. BOPE used in possible or probable hydrogen sulfide or sour gas formations shall be suitable for use in such areas.

2.6. The operator shall comply with R649-3-23, Well Workover and Recompletion.

1. Requests for approval of a notice of intention to perform a workover or recompletion shall be filed by an operator with the division on Form 9, Sundry Notices and Reports on Wells, or if the operation includes substantial redrilling, deepening, or plugging back of an existing well, on Form 3, Application for Permit to Drill, Deepen or Plug Back.

2. The division shall review the proposed workover or recompletion for conformance with the Oil and Gas Conservation General Rules and advise the operator of its decision and any necessary conditions of approval.

3. Recompletions shall be conducted in a manner to protect the original completion interval(s) and any other known productive intervals.

4. The same tests and reports are required for any well recompletion as are required following an original well completion.

5. The applicant shall file a subsequent report of workover on Form 9, Sundry Notices and Reports, or a subsequent report of recompletion on Form 8, Well Completion or Recompletion Report and Log, within 30 days after completing the workover or recompletion operations.

3. Management of flowback water and surface protection.

3.1. The operator shall comply with R649-3-15, Pollution and Surface Damage Control.

1. The operator shall take all reasonable precautions to avoid polluting lands, streams, reservoirs, natural drainage ways, and underground water.

1.1. The owner or operator shall carry on all operations and maintain the property at all times in a safe and workmanlike manner having due regard for the preservation and conservation of the property and for the health and safety of employees and people residing in close proximity to those operations.

1.2. At a minimum, the owner or operator shall:

1.2.1. Take reasonable steps to prevent and shall remove accumulations of oil or other materials deemed to be fire hazards from the vicinity of well locations, lease tanks and pits.

1.2.2. Remove from the property or store in an orderly manner, all scrap or other materials not in use.

1.2.3. Provide secure workmanlike storage for chemical containers, barrels, solvents, hydraulic fluid, and other non-exempt materials.

1.2.4. Maintain tanks in a workmanlike manner that will preclude leakage and provide for all applicable safety measures, and construct berms of sufficient height and width to contain the quantity of the largest tank at the storage facility.

1.2.4.1. The use of crude or produced water storage tanks without tops is strictly prohibited except during well testing operations.

1.2.5. Catch leaks and drips, contain spills, and cleanup promptly.

1.2.6. Waste reduction and recycling should be practiced in order to help reduce disposal volumes.

1.2.7. Produced water, tank bottoms and other miscellaneous waste should be disposed of in a manner that is in compliance with these rules and other state, federal, or local regulations or ordinances.

1.2.8. In general, good housekeeping practices should be used.

3.2. The operator shall comply with R649-3-16, Reserve Pits and Other On-site Pits.

1. Small onsite oil field pits including, but not limited to, reserve pits, emergency pits, workover and completion pits, storage pits, pipeline drip pits, and sumps shall be located and constructed in such a manner as to contain fluids and not cause pollution of waters and soils. They shall be located and constructed according to the Division guidelines for onsite pits. See Ranking Criteria for Reserve and Onsite Pit Liner Requirements, on the Oil, Gas and Mining web page.

2. Reserve pit location and construction requirements including liner requirements will be discussed at the predrill site evaluation. Special stipulations concerning the reserve pit will be included as part of the Division's approval to drill.

3. Following drilling and completion of the well the reserve pit shall be closed within one year, unless permission is granted by the Division for a longer period.

4. Pit contents shall meet the Division's Cleanup Levels (guidance document for numeric clean-up levels) or background levels prior to burial.

5. The contents may require treatment to reduce mobility and/or toxicity in order to meet cleanup levels.

6. The alternative to meeting cleanup levels would be transporting of material to an appropriate disposal facility.

3.3. The operator shall comply with R649-9-2, General Waste Management.

1. Wastes addressed by these rules are E and P Wastes that are exempt from the RCRA hazardous waste management requirements.

1.1. Before using a commercial disposal facility the operator may contact the Division to verify the status of the facility. The Division regularly updates this information on the Division of Oil, Gas and Mining web site.

1.2. Each site and/or facility used for disposal must be permitted and in good standing with the division.

2. Reduction of the amount of material generated that must be disposed of is the preferred practice.

2.1. Recycling should be used whenever possible and practical.

2.2. In general, good housekeeping practices shall be used.

2.3. Operators shall catch leaks, drips, contain spills, and cleanup promptly.

3. The method of disposal used shall be compatible with the waste that is the subject of disposal.

3.1. RCRA exempt waste shall not be mixed with nonexempt waste.

4. Every operator shall file an Annual Waste Management Plan by January 15 of each year to account for the proper disposition of produced water and other E and P Wastes.

4.1. If changes are made to the plan during the year, then the operator shall notify the division in writing of this change.

4.2. This plan will include the type and estimated annual volume of wastes that will be or have been generated.

4.3. The disposal facilities private or to be used for disposal.

4.4. The description of any waste reduction or minimization procedures.

4.5. Any onsite disposal/treatment methods or programs to be implemented by the operator.

3.4. The operator shall comply with R649-5-1, Requirements for Injection of Fluids Into Reservoirs.

1. Operations to increase ultimate recovery, such as cycling of gas, the maintenance of pressure, the introduction of gas, water or other substances into a reservoir for the purpose of secondary or other enhanced recovery or for storage and the injection of water into any formation for the purpose of water disposal shall be permitted only by order of the board after notice and hearing.

2. A petition for authority for the injection of gas, liquefied petroleum gas, air, water, or any other medium into any formation for any reason, including but not necessarily limited to the establishment of or the expansion of waterflood projects, enhanced recovery projects, and pressure maintenance projects shall contain:

2.1. The name and address of the operator of the project.

2.2. A plat showing the area involved and identifying all wells, including all proposed injection wells, in the project area and within one-half mile radius of the project area.

2.3. A full description of the particular operation for which approval is requested.

2.4. A description of the pools from which the identified wells are producing or have produced.

2.5. The names, description and depth of the pool or pools to be affected.

2.6. A copy of a log of a representative well completed in the pool.

2.7. A statement as to the type of fluid to be used for injection, its source and the estimated amounts to be injected daily.

2.8. A list of all operators or owners and surface owners within a one-half mile radius of the proposed project.

2.9. An affidavit certifying that said operators or owners and surface owners within a one-half mile radius have been provided a copy of the petition for injection.

2.10. Any additional information the board may determine is necessary to adequately review the petition.

3. Applications as required by R649-5-2 for injection wells that are located within the project area, may be submitted for board consideration and approval with the request for authorization of the recovery project.

4. Established recovery projects may be expanded and additional wells placed on injection only upon authority from the board after notice and hearing or by administrative approval.

5. If the proposed injection interval can be classified as an USDW, approval of the project is subject to the requirements of R649-5-4.

3.5. The operator shall comply with R649-5-2, Requirements for Class II Injection Wells Including Water Disposal, Storage and Enhanced Recovery Wells.

1. Injection wells shall be completed, equipped, operated, and maintained in a manner that will prevent pollution and damage to any USDW, or other resources and will confine injected fluids to the interval approved.

2. The application for an injection well shall include a properly completed UIC Form 1 and the following:

2.1. A plat showing the location of the injection well, all abandoned or active wells within a one-half mile radius of the proposed well, and the surface owner and the operator of any lands or producing leases, respectively, within a one-half mile radius of the proposed injection well.

2.2. Copies of electrical or radioactive logs, including gamma ray logs, for the proposed well run prior to the installation of casing and indicating resistivity, spontaneous potential, caliper, and porosity.

2.3. A copy of a cement bond or comparable log run for the proposed injection well after casing was set and cemented.

2.4. Copies of logs already on file with the division should be referenced, but need not be refiled.

2.5. A description of the casing or proposed casing program of the injection well and of the proposed method for testing the casing before use of the well.

2.6. A statement as to the type of fluid to be used for injection, its source and estimated amounts to be injected daily.

2.7. Standard laboratory analyses of:

2.7.1. The fluid to be injected,

2.7.2. The fluid in the formation into which the fluid is being injected, and

2.7.3. The compatibility of the fluids.

2.8. The proposed average and maximum injection pressures.

2.9. Evidence and data to support a finding that the proposed injection well will not initiate fractures through the overlying strata or a confining interval that could enable the injected fluid or formation fluid to enter any fresh water strata.

2.10. Appropriate geological data on the injection interval with confining beds clearly labeled,

2.10.1. Nearby Underground Sources of Drinking Water, including the geologic formation name,

2.10.2. Lithologic descriptions, thicknesses, depths, water quality, and lateral extent;

2.10.3. Information relative to geologic structure near the proposed well that may effect the conveyance and/or storage of the injected fluids.

2.11. A review of the mechanical condition of each well within a one-half mile radius of the proposed injection well to assure that no conduit exists that could enable fluids to migrate up or down the wellbore and enter improper intervals.

2.12. An affidavit certifying that a copy of the application has been provided to all operators, owners, and surface owners within a one-half mile radius of the proposed injection well.

2.13. Any other additional information that the board or division may determine is necessary to adequately review the application.

3. Applications for injection wells that are within a recovery project area will be considered for approval:

3.1. Pursuant to R649-5-1-3.

3.2. Subsequent to board approval of a recovery project pursuant to R649-5-1-1.

4. Approval of an injection well is subject to the requirements of R649-5-4, if the proposed injection interval can be classified as an USDW.

5. In addition to the requirements of this section, the provisions of R649-3-1, R649-3-4, R649-3-24, R649-3-32, and R649-8-1 and R649-10 shall apply to all Class II injection wells.

3.6. The operator shall comply with R649-5-3, Noticing and Approval of Injection Wells.

1. Applications for injection wells submitted pursuant to R649-5-1-3 shall be noticed in conformance with the procedural rules of the board as part of the hearing for the recovery project. Any person desiring to object to approval of such an application for an injection well shall file the objection in conformance with the procedural rules of the board.

2. The receipt of a complete and technically adequate application, other than an application submitted pursuant to R649-5-3-1, shall be considered as a request for agency action by the Division and shall be published in a daily newspaper of general circulation in the city and county of Salt Lake and in a newspaper of general circulation in the county where the proposed well is located. A copy of the notice of agency action shall also be sent to all parties including government agencies. The notice of agency action shall contain at least the following information:

2.1. The applicant's name, business address, and telephone number.

2.2. The location of the proposed well.

2.3. A description of proposed operation.

3. If no written objection to the application for administrative approval of an injection well is received by the division within 15 days after publication of the notice of agency action, or an aquifer exemption is not required in accordance with R649-5-4, and a board hearing is not otherwise required, the application may be considered and approved administratively.

4. If a written objection to an application for administrative approval of an injection well is received by the division within 15 days after publication of the notice of application, or if a hearing is required by these rules or deemed advisable by the director, the application shall be set for notice and hearing by the board.

5. The director shall have the authority to grant an exception to the hearing requirements of R649-5-1.1 for conversion to injection of additional wells that constitute a modification or expansion of an authorized project provided that any such well is necessary to develop or maintain thorough and efficient recovery operations for any authorized project and provided that no objection is received pursuant to R649-5-3-3.

6. The director shall have authority to grant an exception to the hearing requirements of R649-5-1-1 for water disposal wells provided disposal is into a formation or interval that is not currently nor anticipated to be an underground source of drinking water and provided that no objection is received pursuant to R649-5-3-3.

3.7. The operator shall comply with R649-5-4, Aquifer Exemption.

1. The board may, after notice and hearing and subject to the EPA approval, authorize the exemption of certain aquifers from classification as an USDW based upon the following findings:

1.1. The aquifer does not currently serve as a source of drinking water.

1.2. The aquifer cannot now and will not in the future serve as a source of drinking water for any of the following reasons:

1.2.1. The aquifer is mineral, hydrocarbon or geothermal energy producing, or it can be demonstrated by the applicant as part of a permit application for a Class II well operation, to contain minerals or hydrocarbons that, considering their quantity and location, are expected to be commercially producible.

1.2.2. The aquifer is situated at a depth or location that makes recovery of water for drinking water purposes economically or technologically impractical.

1.2.3. The aquifer is contaminated to the extent that it would be economically or technologically impractical to render water from the aquifer fit for human consumption.

1.2.4. The aquifer is located above a Class III well mining area subject to subsidence or catastrophic collapse.

1.3. The total dissolved solids content of the water from the aquifer is more than 3,000 and less than 10,000 mg/l, and the aquifer is not reasonably expected to be used as a source of fresh or potable water.

2. Interested parties desiring to have an aquifer exempted from classification as a USDW, shall submit to the division an application that includes sufficient data to justify the proposal. The division shall consider the application and if appropriate, will advise the applicant to submit a request to the board for an aquifer exemption.

3.8. The operator shall comply with R649-5-5, Testing and Monitoring of Injection Wells.

1. Before operating a new injection well, the casing shall be tested to a pressure not less than the maximum authorized injection pressure, or to a pressure of 300 psi, whichever is greater.

2. Before operating an existing well newly converted to an injection well, the casing outside the tubing shall be tested to a pressure not less than the maximum authorized injection pressure, or to a pressure of 1,000 psi, whichever is lesser, provided that each well shall be tested to a minimum pressure of 300 psi.

3. In order to demonstrate continuing mechanical integrity after commencement of injection operations, all injection wells shall be pressure tested or monitored as follows:

3.1. Pressure Test. The casing-tubing annulus above the packer shall be pressure tested not less than once each five years to a pressure equal to the maximum authorized injection pressure or to a pressure of 1,000 psi, whichever is lesser, provided that no test pressure shall be less than 300 psi. A report documenting the test results shall be submitted to the division.

3.2. Monitoring. If approved by the director, and in lieu of the pressure testing requirement, the operator may monitor the pressure of the casing-tubing annulus monthly during actual injection operations and report the results to the division.

3.3. Other test procedures or devices such as tracer surveys, temperature logs or noise logs may be required by the division on a case-by-case basis.

3.4. The operator shall sample and analyze the fluids injected in each disposal well or enhanced recovery project at sufficiently frequent time intervals to yield data representative of fluid characteristics, and no less frequently than every year.

3.5. The operator shall submit a copy of the fluid analysis to the division with the Annual Fluid Injection Report, UIC Form 4.

3.9. The operator shall comply with R649-5-6, Duration of Approval for Injection Wells.

1. Approvals or orders authorizing injection wells shall be valid for the life of the well, unless revoked by the board for just cause, after notice and hearing.

2. An approval may be administratively amended if:

2.1. There is a substantial change of conditions in the injection well operation.

2.2. There are substantial changes to the information originally furnished.

2.3. Information as to the permitted operation indicates that an USDW is no longer being protected.

**KEY: oil and gas law**

**Date of Enactment or Last Substantive Amendment: ~~July 1, 2003~~ 2012**

**Notice of Continuation: February 3, 2012**

**Authorizing, and Implemented or Interpreted Law: 40-6-1 et seq.; 40-6-5(3)**

## Natural Resources, Parks and Recreation **R651-637** 2012 Antelope Island State Park Special Mule Deer and Bighorn Sheep Hunt

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 36682  
FILED: 08/21/2012

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** During the 2010 General Session of the Utah Legislature, intent language was incorporated into H.B. 3 which directed the Division of State Parks and Recreation to begin efforts which would lead to a one-time hunt for both mule deer and bighorn sheep on Antelope Island State Park during the fall of 2011. The Division was instructed to work with the Division of Wildlife Resources (DWR) to issue two permits for each species. One permit for each species would be awarded through the Division of Wildlife Resources' public draw, and one permit for each species would be auctioned off to the highest bidder utilizing the Division of Wildlife Resources' current process.

**SUMMARY OF THE RULE OR CHANGE:** Pursuant to the initial intent language passed during the 2010 General Session, identical language was passed during the 2011 General Session and the 2012 General Session. Consequently, a second hunt will be held during 2012 (previously authorized by the State Parks and Recreation Board). Because of the 2012 language, a 2013 hunt will need to be authorized. This change authorizes an annual

hunt, with hunt dates, harvest objectives and other parameters being set by the Board on an annual basis.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 79-4-304

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The only affected persons are those who draw the permits. Since the permit costs are set by either bid conditions or by DWR, they are not affected by this rule.

◆ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government budgets. The only affected persons are those who draw the permits. Since the permit costs are set by either bid conditions or by DWR, they are not affected by this rule.

◆ SMALL BUSINESSES: There are no anticipated costs or savings to small business. The only affected persons are those who draw the permits. Since the permit costs are set by either bid conditions or by DWR, they are not affected by this rule.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings to other persons. The only affected persons are those who draw the permits. Since the permit costs are set by either bid conditions or by DWR, they are not affected by this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only affected persons are those who draw the permits. Since the permit costs are set by either bid conditions or by DWR, they are not affected by this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be a positive impact on business as a result of this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at [tammywright@utah.gov](mailto:tammywright@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

AUTHORIZED BY: Fred Hayes, Director

**R651. Natural Resources, Parks and Recreation.**

**R651-637. [2012] Antelope Island State Park Special Mule Deer and Bighorn Sheep Hunt.**

**R651-637-1. Authorization of a Hunt.**

(1) ~~[A hunt for]~~ Hunting of mule deer and bighorn sheep on Antelope Island State Park is authorized, and ~~[for the fall of 2012. Access]~~ access on Antelope Island State Park is authorized for the purpose of hunting mule deer and bighorn sheep ~~[in the fall of 2012].~~

(2) All hunting shall be confined to the designated hunting unit which consists of that portion of approximately 26,000 acres on Antelope Island lying south of the chain link fence, commonly known as the "2000 acre fence" beginning in Farmington Bay and running in a south southwesterly direction and ending at White Rock Bay.

(3) Dates, harvest objectives and other parameters for hunts during shall be set annually by the Board utilizing recommendations of Division staff and interested parties.

**R651-637-2. Applicability of Law and Rules.**

Hunting during the ~~[2012-]~~ Antelope Island State Park Special Mule Deer and Bighorn Sheep Hunt shall be conducted in accordance with applicable state law, administrative code, hunting guidebooks of the Utah Wildlife Board, and in accordance with this rule.

**R651-637-3. Season Dates.**

The ~~[2012-]~~ Antelope Island State Park Special Mule Deer and Bighorn Sheep Hunt shall be conducted during legal hunting hours as follows:

(1) Hunters obtaining a permit to hunt mule deer or bighorn sheep on Antelope Island through the competitive bid process may hunt during legal hours beginning 30 minutes before official sunrise on November 12 2012 and ending 30 minutes after official sunset on November 21, 2012.

(2) Hunters obtaining a permit to hunt mule deer or bighorn sheep on Antelope Island through the public draw process may hunt during legal hours beginning 30 minutes before official sunrise on November 15, 2012 and ending 30 minutes after official sunset on November 21, 2012.

**R651-637-4. Hunting Party Size.**

Each hunter licensed to hunt during the ~~[2012-]~~ Antelope Island State Park Special Mule Deer and Bighorn Sheep Hunt may be accompanied by up to four (4) non-hunting companions. Guides, photographers, packers and all other individuals accompanying the hunter in camp or in the field are included in this limit.

**R651-637-5. Fees.**

(1) Day use fees for licensed hunters and their companions will be waived for the duration of their hunt.

(2) Camping fees for hunters and their companions who desire to camp on Antelope Island during the hunt will be charged per the current fee schedule. All campers shall camp in designated areas as directed by park management.

(3) Commercial activities related to hunt activities shall be individually evaluated and permitted through the Division's established processes.

**R651-637-6. Access.**

(1) Motor vehicle access will be limited to [~~publicly accessible~~] roads open to public use. No off-road, motorized vehicular travel will be allowed.

(2) Off-highway vehicles as defined in Title 41-22-2 UCA are not allowed on Antelope Island.

(3) During the hunt, foot and horse travel, including cross-country foot and horse travel, will be allowed in all areas of the hunting unit.

(4) Foot and horse travel including cross-country foot and horse travel for the purposes of pre-season scouting is authorized for hunters and their guides. Hunters and guides conducting pre-season scouting shall notify Park Management of their presence on the Island, and shall adhere to instructions provided by Park Management. Standard day use and camping fees shall apply to pre-season scouting visits.

**R651-637-7. Mandatory Orientation.**

A mandatory orientation will be held prior to the hunt at the Antelope Island State Park Visitor Center. All license holders and their guides shall be in attendance at this orientation session.

**R651-637-8. Mandatory Check-in and Check-out.**

All hunters and their companions shall check in with Park Management at the beginning of their hunt and shall check out at the end of their hunt. [~~In addition, any hunter or companion leaving or returning to Antelope Island during the course of the hunt shall check in or check out with Park Management.~~] Instructions on checking in and out will be provided at the mandatory orientation.

**R651-637-9. Handling of Harvested Wildlife.**

The carcasses of all harvested wildlife shall be covered while being transported on Antelope Island or on the Antelope Island Causeway. This includes all parts of the harvested wildlife, including the head.

**KEY: parks, hunting**

**Date of Enactment or Last Substantive Amendment:**  
~~[December 9, 2011]~~ **October 22, 2012**

**Authorizing, and Implemented or Interpreted Law: 79-4-304**

Public Safety, Driver License  
**R708-41**  
 Requirements for Acceptable  
 Documentation, Storage and  
 Maintenance

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 36693

FILED: 08/24/2012

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose for this change is to allow individuals who entered the United States in a refugee or approved asylee immigration status whose immigration status has been changed to legal permanent resident the ability to apply for a "limited-term" driver license and take the written driver license test in their native language with the assistance of an interpreter.

**SUMMARY OF THE RULE OR CHANGE:** Currently, an individual whose immigration status is refugee or approved asylee who is applying for their first Utah driving privilege is given the option of taking the written test on Utah driving laws in their native language with the assistance of an interpreter. An individual whose immigration status is legal permanent resident is only eligible to apply for a "regular" driver license and must pass the written test on Utah driving laws in English. Because some refugees and approved asylees immigration status is changed to legal permanent resident in one year, this change will allow these individuals the option applying for a "limited-term" driver license rather than a "regular" driver license and of taking the written driving test in their native language with the assistance of an interpreter.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 53-3-104 and Section 53-3-206

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** State budget is not affected by this change because the license fees for a "regular" driver license and a "limited-term" driver license are the same amount.

♦ **LOCAL GOVERNMENTS:** Local government is not affected by this change because local government does not issue Utah driver licenses.

♦ **SMALL BUSINESSES:** Businesses approved by the Department of Workforce Services that provide interpreting services may see an increase in the number of individuals seeking an interpreter for the purpose of taking the Utah driver license written test.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Individuals who are eligible to apply for a limited-term driver license and choose to use an interpreter are responsible for the interpreter's fees.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons because it is the individual's option to use an interpreter. It is not a mandatory requirement.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There may be a positive fiscal impact on businesses approved by the Department of Workforce Services that provide interpreting services.

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

PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY, UT 84119-5595  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jill Laws by phone at 801-964-4469, by FAX at 801-964-4482, or by Internet E-mail at [jlaws@utah.gov](mailto:jlaws@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON  
THIS RULE BY SUBMITTING WRITTEN COMMENTS NO  
LATER THAN AT 5:00 PM ON 10/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 10/23/2012

AUTHORIZED BY: Lance Davenport, Commissioner

**R708. Public Safety, Driver License.**

**R708-41. Requirements for Acceptable Documentation, Storage and Maintenance.**

**R708-41-1. Authority.**

This rule is authorized by Section 53-3-104.

**R708-41-2. Purpose.**

The purpose of this rule is to define acceptable documentation for a Utah license certificate or Utah Identification card and to establish procedures for storage and maintenance of those documents pursuant to Title 53, Chapter 3.

**R708-41-3. Definitions.**

(1) "Acceptable Document" means an original document or a copy certified by the issuing agency, which the division accepts for determining the validity of information submitted in connection with a license certificate or identification card (ID card) application which may include but is not limited to, the applicant's identification, legal/lawful presence, social security number (SSN) or ineligibility to obtain a social security number as a result of the applicant's legal/lawful presence status, individual tax identification number (ITIN) or the Utah residence address. Any document that has been or appears to have been duplicated, traced over, mutilated, defaced, tampered with, or altered in any manner or that is not legible may not be accepted for licensing and identification card purposes.

(2) "Alternate Document" means a document that may be accepted when the applicant is, for reasons beyond their control, unable to present all necessary documents to establish identity or date of birth as required in definition (6)(a) or U.S. Citizenship as required for proof of legal/lawful presence in definition (8)(a) subject to approval by the Department of Homeland Security (DHS) or the division director or designee.

(3) "Driving Privilege Card" (DPC) means a driving certificate that may only be issued to an applicant who meets the requirements of definition (14) for an undocumented immigrant.

(4) "Exception Process" means a written, defined process for persons who, for reasons beyond their control, are unable to present all necessary documents and must rely on alternate documents to establish identity, date of birth or U.S. Citizenship.

(5) "Full Legal Name Evidence" means the name established on the identity document referenced in definition (6). Any name variation from the original or certified document(s) must be accompanied by legal authorizing documentation, except that, the name established on the division's database may be considered to be the full legal name unless otherwise determined by the division. Upon application for any license certificate or ID card, a change of the applicant's full legal name must be accompanied by an acceptable document which authorizes the name change.

(6) "Identity Document" means an original, government-issued document which contains identifying information about the subject of the document including the full legal name and date of birth or a document approved by DHS or the division director or designee. A copy of an original document must be certified by the issuing agency.

(a) Group A documents are acceptable for applicants for a regular driver license, Commercial Driver License (CDL) or ID card referenced in definition (9)(a):

(i) Valid, unexpired U.S. passport or passport card which may provide evidence of both legal/lawful presence and identity;

(ii) Certified copy of a birth certificate filed with the State Office of Vital Statistics or equivalent agency in the individual's State of birth which may provide evidence of both legal/lawful presence and identity;

(iii) Consular Report of Birth Abroad (CRBA) issued by the U.S. Department of State, Form FS-240, DS-1350 or FS-545 which may provide evidence of both legal/lawful presence and identity;

(iv) Valid, unexpired Permanent Resident Card, Form I-551, which may provide evidence of both legal/lawful presence and identity;

(v) Certificate of Naturalization issued by DHS, Form N-550 or Form N-570, which may provide evidence of both legal/lawful presence and identity;

(vi) Certificate of Citizenship, Form N-560 or Form N-561, issued by DHS which may provide evidence of both legal/lawful presence and identity;

(vii) Regular Utah driver license, CDL or ID card that has been issued on or after January 1, 2010 is only acceptable for renewal or duplicate certificates and may provide evidence of both legal/lawful presence and identity; or

(viii) Alternate documents may be accepted if approved by DHS or the division director or designee.

(b) Group B documents are acceptable for applicants for a limited-term driver license, limited-term CDL or limited-term ID card referenced in definition (9)(b):

(i) Unexpired employment authorization document (EAD) issued by DHS, Form I-766, or Form I-688B verified through the Systematic Alien Verification for Entitlements system (SAVE) which may provide evidence of both legal/lawful presence; or

(ii) Unexpired foreign passport with documentary evidence of the applicant's most recent admittance into the United States verified through SAVE which may provide evidence of both legal/lawful presence.

(c) Group C documents are acceptable for applicants for a DPC referenced in definition (14) and at least one of the documents listed below must be presented with a foreign birth certificate including a certified translation if the birth certificate is not in English or a foreign passport including a certified translation if the passport is not in English:

- (i) Church records;
- (ii) Court records;
- (iii) Driver License;
- (iv) Employee ID;
- (v) Insurance ID card;
- (vi) Matricular Consular Card (issued in Utah);
- (vii) Mexican Voter Registration card;
- (viii) School records;
- (ix) Utah DPC;
- (x) Other evidence considered acceptable by the division director or designee.

(7) "Individual Tax Identification Number (ITIN) Evidence" means an official document(s) used to verify an individual's assigned ITIN including:

(a) ITIN card issued by the Internal Revenue Service (IRS); or

(b) Document or letter from the IRS verifying the ITIN.

(8) "Legal/lawful Presence or Status" means that an individual's presence in the United States does not violate state or federal law and includes:

(a) Group A applicants who may qualify for a regular driver license, CDL or ID card if they are a:

- (i) United States citizen;
- (ii) National of the United States of America; or
- (iii) Legal Permanent Resident Alien.

(b) Group B applicants who may qualify for a limited-term driver license, limited-term CDL, or limited-term ID card if they are an immigrant who has:

- (i) Unexpired immigrant or nonimmigrant visa status for admission into the United States;
- (ii) Pending or approved application for asylum in the United States;
- (iii) Admission into the United States as a refugee;
- (iv) Pending or approved application for temporary protected status in the United States;
- (v) Approved deferred action status;
- (vi) Pending application for adjustment of status to legal permanent resident or conditional resident;
- (vii) Conditional permanent resident alien.

(9) "Legal/Lawful Presence or Status Evidence" means a document(s) issued by the United States Government or approved by DHS or the division director or designee which shows legal presence of an individual including:

(a) Group A documents are acceptable for applicants referenced in definition (8)(a) for a regular driver license, CDL, or ID card:

- (i) Valid, unexpired U.S. passport or passport card which may provide evidence of both legal/lawful presence and identity;
- (ii) Certified copy of a birth certificate filed with the State Office of Vital Statistics or equivalent agency in the individual's State of birth which may provide evidence of both legal/lawful presence and identity;

(iii) Consular Report of Birth Abroad (CRBA) issued by the U.S. Department of State, Form FS-240, DS-1350 or FS-545 which may provide evidence of both legal/lawful presence and identity;

(iv) Valid, unexpired Permanent Resident Card, Form I-551, which may provide evidence of both legal/lawful presence and identity;

(v) Certificate of Naturalization issued by DHS, Form N-550 or Form N-570, which may provide evidence of both legal/lawful presence and identity;

(vi) Certificate of Citizenship, Form N-560 or Form N-561, issued by DHS which may provide evidence of both legal/lawful presence and identity;

(vii) Regular Utah driver license, CDL or ID card that has been issued on or after January 1, 2010 is only acceptable for renewal or duplicate certificates and may provide evidence of both legal/lawful presence and identity; or

(viii) Alternate documents may be accepted if approved by DHS or the division director or designee.

(b) Group B documents are acceptable for applicants referenced in definition (8)(b) for a limited-term driver license, limited-term CDL or limited-term ID card with verification from SAVE:

(i) Unexpired employment authorization document (EAD) issued by DHS, Form I-766 or Form I-688B;

(ii) Unexpired foreign passport with documentary evidence of the applicant's most recent admittance into the United States;

(iii) A document issued by the U.S. Federal Government that provides proof of one of the statuses listed below verifies lawful entrance into the United States of America:

(A) Unexpired immigrant or nonimmigrant visa status for admission into the United States issued by the U.S. Federal Government;

(B) Pending or approved application for asylum in the United States;

(C) Admission into the United States as a refugee;

(D) Pending or approved application for temporary protected status in the United States;

(E) Approved deferred action status;

(F) Pending application for adjustment of status to legal permanent resident or conditional resident; or

(G) Conditional permanent resident alien.

(10) "SAVE Verification" means a document issued by the U.S. Federal government has been verified through the DHS SAVE, or such successor or alternate verification system approved by the Secretary of Homeland Security.

(11) "Social Security Number Evidence" means an official document(s) used to verify an individual's assigned U.S. Social Security Number (SSN) and may be verified through the Social Security On-Line Verification system (SSOLV) during every application process and includes:

(a) Social Security card issued by the U.S. government that has been signed or,

(b) If the Social Security card is not available, the applicant may present one of the following documents which contain the applicant's name and SSN:



- (i) W-2 form;
- (ii) SSA-1099 form;
- (iii) Non SSA-1099 form;
- (iv) Pay stub showing the applicant's name and SSN; or
- (v) Other documents approved by DHS or the division

director or designee.

(12) "Social Security Number Ineligibility" means an individual is ineligible to receive a Social Security Number as a result of their legal/lawful presence status.

(13) "Social Security Number Ineligibility Evidence" means letter from the Social Security Administration indicating the individual is not eligible to receive a Social Security Number as a result of their legal/lawful presence status.

(14) "Undocumented Immigrant" means a person who does not meet the qualifications outlined in definition (8) and does not possess the documentation outlined in definition (9) and is only eligible for a DPC.

(15) "U.S. Citizen" means a native or naturalized person of the United States of America.

(16) "Utah Residence Address" means the place where an individual has a fixed permanent home and principal establishment in Utah and in which the individual voluntarily resides, that is not for a special or temporary purpose. Under unique situations that require an individual to be under temporary care, custody, or treatment of a government, public, or private business the division may authorize the sponsoring agency to sign an affidavit verifying the residence of the applicant. Upon approval of the division director or designee, the division will recognize the sponsoring agency's address as the Utah residence address of the applicant.

(17) "Utah Residence Address Evidence" means the Utah residence address recorded on the Utah Driver License Division database unless otherwise determined by the division or, upon application for a Utah license certificate or ID card if the applicant's Utah residence address has not been recorded by the division or has changed from what is recorded on the division's database, two documents which display the applicant's name and principle Utah residence address including:

- (a) Bank statement (dated within 60 days);
- (b) Court documents;
- (c) Current mortgage or rental contract;
- (d) Major credit card bill (dated within 60 days);
- (e) Property tax notice (statement or receipt dated within one year);

(f) School transcript (dated within 90 days);

(g) Utility bill (billing date within 60 days), cell phone bills will not be accepted;

- (h) Valid Utah vehicle registration or title;
- (i) Other documents acceptable to the division upon review, except that only one document printed from the internet may be accepted.

(18) "Veteran indicator" means the word VETERAN will be added to specific driver license certificates and identification certificates during the application process at the applicant's request and upon the applicant providing proof of an honorable discharge from the United States military in the form of a DD214 or other documents, if approved by the division director or designee.

**R708-41-4. Obtaining a Utah Learner Permit, Provisional License Certificate, Regular License Certificate, Limited-Term License Certificate, Driving Privilege Card, CDL Certificate, Limited-Term CDL Certificate, Identification Card, or Limited-Term Identification Card.**

(1) An individual who is applying for a Learner Permit must provide the following documents:

(a) One legal/lawful presence document as outlined in definition (9)(a) and one identity document as outlined in definition (6)(a); or

(b) One legal/lawful presence document as outlined in definition (9)(b) and one identity document as outlined in definition (6)(b); or

(c) Two identity documents as outlined in definition (6) (c) for undocumented immigrants; and

(d) Evidence of their SSN as outlined in definition (11), or evidence of their ineligibility to obtain a SSN as outlined in definition (12), or evidence of their ITIN as outlined in definition (7); and

(e) Evidence of their current Utah residence address as outlined in definition (17).

(2) An individual who is applying for a provisional license certificate, regular license certificate, CDL certificate, or identification card must provide the following documents, except that an applicant for an identification card does not need to comply with (2)(e):

(a) One legal/lawful presence document as outlined in definition (9)(a), unless previously recorded by the division during an application process on or after January 1, 2010; and

(b) One identity document as outlined in definition (6)(a), unless previously recorded by the division during an application process on or after January 1, 2010; and

(c) Evidence of their SSN as outlined in definition (11), unless previously recorded by the division during an application process on or after January 1, 2010, or evidence of ineligibility to obtain a SSN as outlined in definition (12), except that applicants for an original CDL must provide their Social Security card; and

(d) Evidence of their current Utah residence address as outlined in definition (17); and

(e) Evidence of completion of a course in driver training approved by the commissioner, or evidence that the individual was issued a driving privilege in another state or country if younger than 19 years of age.

(f) CDL applicants must provide a current DOT Medical card.

(3) An individual who is applying for a renewal of a regular license certificate, provisional license certificate, or CDL certificate card must provide the following documents:

(a) One legal/lawful presence document as outlined in definition (9)(a), unless previously recorded by the division during an application process on or after January 1, 2010; and

(b) One identity document as outlined in definition (6)(a), unless previously recorded by the division during an application process on or after January 1, 2010; and

(c) Evidence of their SSN as outlined in definition (11), unless previously recorded by the division during an application process on or after January 1, 2010, or evidence of ineligibility to obtain a SSN as outlined in definition (12); and

(d) Evidence of their current Utah residence address as outlined in definition (17).

(4) An individual who is applying for a duplicate of a regular license certificate, a provisional license certificate, or CDL certificate must provide the following documents:

(a) One legal/lawful presence document as outlined in definition (9)(a), unless previously recorded by the division during an application process on or after January 1, 2010; and

(b) One identity document as outlined in definition (6)(a), unless previously recorded by the division during an application process on or after January 1, 2010; and

(c) Evidence of their SSN as outlined in definition (11), unless previously recorded by the division during an application process on or after January 1, 2010, or evidence of ineligibility to obtain a SSN as outlined in definition (12); and

(d) Evidence of their current Utah residence address as outlined in definition (17).

(5) An individual who is applying for a limited-term license certificate, limited-term provisional certificate, limited CDL certificate, or limited-term identification card must provide the following documents, except that an applicant applying for a limited-term identification card does not need to comply with (5) (e):

(a) One legal/lawful presence document as outlined in definition (9)(b); and

(b) One identity document as outlined in definition (6)(b) unless previously recorded by the division during an application process on or after January 1, 2010; and

(c) Evidence of their SSN as outlined in definition (11), unless previously recorded by the division during an application process on or after January 1, 2010, or evidence of ineligibility to obtain a SSN as outlined in definition (12), except that applicants for an original limited-term CDL must provide their Social Security card; and

(d) Evidence of their current Utah residence address as outlined in definition (17); and

(e) Evidence of completion of a course in driver training approved by the commissioner, or evidence that the individual was issued a driving privilege in another state or country if younger than 19 years of age.

(6) An individual who is applying for a renewal of a limited-term license certificate, a limited-term provisional license certificate, or limited-term CDL certificate must provide the following documents:

(a) One legal/lawful presence document as outlined in definition (9)(b); and

(b) One identity document as outlined in definition (6)(b) unless previously recorded by the division during an application process on or after January 1, 2010; and

(c) Evidence of their SSN as outlined in definition (11), unless previously recorded by the division during an application process on or after January 1, 2010, or evidence of ineligibility to obtain a SSN as outlined in definition (12); and

(d) Evidence of their current Utah residence address as outlined in definition (17);

(7) An individual who is applying for a duplicate of a limited-term license certificate, a limited-term provisional license certificate or a limited-term CDL certificate, must provide the following documents:

(a) One legal/lawful presence document as outlined in definition (9)(b); and

(b) One identity document as outlined in definition (6)(b) unless previously recorded by the division during an application process on or after January 1, 2010; and

(c) Evidence of their SSN as outlined in definition (11), unless previously recorded by the division during an application process on or after January 1, 2010, or evidence of ineligibility to obtain a SSN as outlined in definition (12); and

(d) Evidence of their current Utah residence address as outlined in definition (17);

(8) An individual who is applying for a Driving Privilege card must provide the following documents:

(a) Two identity documents as outlined in definition (6) (c) for undocumented immigrants unless previously recorded by the division during an application process on or after January 1, 2010; and

(b) Evidence of a SSN as outlined in definition (11); or evidence of an ITIN as outlined in definition (7); and

(c) Evidence of their current Utah residence address as outlined in definition (17); and

(d) Evidence of completion of a course in driver training approved by the commissioner, or evidence that the individual was issued a driving privilege in another state or country if younger than 19 years of age.

(9) An individual who is applying for a renewal of a Driving Privilege card must provide the following documents:

(a) Two identity documents as outlined in definition (6) (c) for undocumented immigrants unless previously recorded by the division during an application process on or after January 1, 2010; and

(b) Evidence of a SSN as outlined in definition (11); or evidence of an ITIN as outlined in definition (7); and

(c) Evidence of their current Utah residence address as outlined in definition (17).

(10) An individual who is applying for a duplicate of a Driving Privilege card must provide the following documents:

(a) Two identity documents as outlined in definition (6) (c) for undocumented immigrants unless previously recorded by the division during an application process on or after January 1, 2010; and

(b) Evidence of a SSN as outlined in definition (11); or evidence of an ITIN as outlined in definition (7); and

(c) Evidence of their current Utah residence address as outlined in definition (17).

(11) An individual who is applying for a limited-term driver license for the first time shall be given the opportunity to take the knowledge test on the state of Utah traffic laws in the person's native language must provide the following documents:

(a) One legal/lawful presence document as outlined in definition (9)(b)(iii)(B) or (C); and

(b) One identity document as outlined in definition (6)(a) (iv); and

(c) Evidence of their SSN as outlined in definition (11) or evidence of ineligibility to obtain a SSN as outlined in definition (12); and

(d) Evidence of their current Utah residence address as outlined in definition (17); and

(e) Evidence of completion of a course in driver training approved by the commissioner, or evidence that the individual was issued a driving privilege in another state or country if the individual is under the age of 19.

#### **R708-41-5. Exceptions.**

This rule does not apply when issuing driver license certificates or identification cards in support of Federal, State, or local criminal justice agencies or other programs that require special licensing or identification or safeguard the persons or in support of their official duties.

#### **R708-41-6. Document Storage.**

All documents provided to the division by an applicant during a license certificate or identification card application process as proof of identity, proof of lawful/legal presence, proof of SSN, or ineligibility to obtain a SSN, ITIN, address verification, or proof of name change will be imaged and stored in a secure database with controlled access. Except that at the applicant's request the information on a U.S. birth certificate may be written on the license or identification card application rather than scanning the document.

**KEY: acceptable documents, identification card, license certificate, limited-term license certificate**

**Date of Enactment or Last Substantive Amendment: [~~July 12, 2011~~]2012**

**Notice of Continuation: March 25, 2010**

**Authorizing, and Implemented or Interpreted Law: 53-3-104; 53-3-205; 53-3-214; 53-3-410; 53-3-804**

## Public Safety, Driver License **R708-48** Ignition Interlock System Program

### NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 36698

FILED: 08/29/2012

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This is a new rule that puts the Utah Driver License Division into compliance with Sections 53-3-1004 and 53-3-1007 for the licensing and regulation of the Utah Ignition Interlock System providers.

**SUMMARY OF THE RULE OR CHANGE:** The rule establishes minimum standards for persons to be licensed to install ignition interlock systems into vehicles of restricted drivers as required by Utah law. Installers and providers will be required to have sufficient training and pass a criminal background check to ensure devices are installed correctly by licensed installers who have the knowledge in current industry standards. This rule will assist in limiting potential fraud by outlining what a provider and installer must do when installing or removing an ignition interlock system into

vehicles, therefore promoting public safety. System providers and installers will be granted access to a web based application that allows for reporting of installations and removals of an ignition interlock system. This also allows the Utah Driver License Division to send timely notices to drivers that are not compliant and would affect their driving privilege. (DAR NOTE: A corresponding 120-day (emergency) rule is under DAR No. 36419 in the July 15, 2012, issue of the Bulletin and is effective as of 07/01/2012.)

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 53-3-1004 and Section 53-3-1007

#### **ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The state will see an increase associated with the different requirements. Public Safety will be receiving the current rate of \$20 for every back ground check. The Utah Driver License Division will be receiving licensing fees from the providers and installers.

◆ **LOCAL GOVERNMENTS:** Local government should not be affected.

◆ **SMALL BUSINESSES:** Small business will see an increase in spending due to the various fees associated with the licensing procedures.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Possible costs could be incurred by the individual if the licensing fees are not covered by the small business entity.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The compliance costs are currently as follows: criminal background fee - \$20, installer's license - \$30, providers license - \$100, branch inspection fee - \$30, annual renewal fee for installers - \$20.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There will be a fiscal impact on business in order to be compliant with the required back ground check and licensing fees.

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

PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY, UT 84119-5595  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012**

**THIS RULE MAY BECOME EFFECTIVE ON: 10/23/2012**

AUTHORIZED BY: Lance Davenport, Commissioner

**R708. Public Safety, Driver License.**

**R708-48. Ignition Interlock System Program.**

**R708-48-1. Authority.**

This rule is authorized by Sections 53-3-1004 and 53-3-1007.

**R708-48-2. Purpose.**

The purpose of this rule is to set standards governing the administration and enforcement of the Ignition Interlock System Program in accordance with Title 53, Chapter 3, Part 10.

**R708-48-3. Definitions.**

(1) Terms used in this rule are defined in Section 53-3-1002.

(2) In addition:

(a) "act of moral turpitude" means conduct which:

(i) is done knowingly contrary to justice, honesty or good morals;

(ii) has an element of falsification or fraud; or

(iii) contains an element of harm or injury directed to another person or another property;

(b) "business" means an ignition interlock system business established to install, remove and maintain ignition interlock systems as specified in R708-31 Ignition Interlock Systems and includes both the business' primary location and any branch offices;

(c) "department" means the Department of Public Safety created in Section 53-1-103;

(d) "division" means the Driver License Division created in Section 53-3-103;

(e) "install" means any service provided by an ignition interlock installer including the installation or removal of an ignition interlock system and the performance of any type of maintenance or service on an ignition interlock system; and

(f) "felony" means a crime under the laws of this state, any other state, the United States, or any district, possession, or territory of the United States for which the penalty is a term of imprisonment in excess of one year.

**R708-48-4. Requirements for Licensure of Providers.**

(1) A provider shall:

(a) be responsible for the oversight of all installers employed by the business;

(b) maintaining all records of the business, including client records and personnel files for all installers employed by the business;

(c) insure the security of all client records and personal data on any forms, receipts or contracts used by the business;

(d) allow the division to conduct inspections and audits of the business and its records;

(e) furnish any records of the business to the division upon request;

(f) train any installers who will be working at the business on how to properly install an ignition interlock system and provide the installers with a certificate of completion;

(g) complete and require all installers who will be working at the business to complete any training administered by the division;

(h) not be convicted of or have been found by the division to have engaged in conduct which constitutes a felony or crime of moral turpitude;

(i) not knowingly employ an installer who has been convicted of or who has been found by the division to have engaged in conduct which constitutes a felony or crime of moral turpitude;

(j) post signs on the business to identify the business by the name listed on the provider's license application;

(k) conspicuously display at the business a copy of the provider's license and business license;

(l) not be employed by more than one business at a time;

(m) insure that the business does not operate from the same facility or location as another business;

(n) notify the division when the provider is no longer working at a business;

(o) surrender the provider's license to the division within five days if the provider is no longer working at the business or the provider's license is denied, cancelled or revoked;

(p) obtain and maintain a \$50,000 surety bond for the business that shall:

(i) protect against liability to third persons;

(ii) be continuous in form and run concurrently with the license period; and

(iii) provide for notice to the division in the event of cancellation of the surety bond.

(q) ensure that a business, located in a municipality having a population of 50,000 or more, is not located within 1500 feet of a facility in which vehicle registrations or driver licenses are issued to the public, unless the business was established in that location prior to the establishment of the facility in which vehicle registrations or driver licenses are issued to the public;

(r) not solicit business directly or indirectly or display or distribute any advertising material within 1500 feet of a building in which vehicle registrations or driver licenses are issued to the public;

(s) seek approval from the division before moving the business;

(t) insure that the business' facilities and buildings comply with federal, state, and local building, fire, safety and health codes;

(u) not use any logos, letterhead, documents, driver license or vehicle plate license recreations of the department, the division or the Utah State Tax Commission, Division of Motor Vehicles, in their advertising, however a business may display on its premises a sign reading, "This Ignition Interlock System Provider is licensed by the State of Utah."

(v) notify the division in writing of any changes to residential or mailing address of anyone who works at the business; and

(w) notify the division in writing if any employee is no longer employed by the business.

**R708-48-5. Procedure to Obtain and Renew a Provider License.**

(1) To apply for or renew a provider license, an applicant shall submit a completed provider application packet to the division at 4501 South 2700 West, Salt Lake City, Utah.

(2) The packet shall include:

(a) a completed provider application form provided by the division, which has been signed and notarized by the applicant and all other required parties;

(b) an application or renewal fee, along with any branch office fees, which shall be made payable to the department;

(c) one completed FBI applicant fingerprint card (Form FD-258) with the applicant's legible fingerprints and a check or money order made payable to the Utah Bureau of Criminal Identification to cover the fee associated with a criminal history background check;

(d) samples of all forms, receipts, and contracts used in the course of operation of the business;

(e) a schedule of fees to be charged by the business for each service performed by the business;

(f) a description of how the business shall be operated, which shall include:

(i) a description of how the provider will meet the requirements of Title 53, Chapter 3, Part 10 and R708-48;

(ii) a detailed installer training plan; and

(iii) copies of all training materials that will be used;

(g) evidence of a \$50,000 surety bond for the business that shall:

(i) protect against liability to third persons;

(ii) be continuous in form and run concurrently with the license period; and

(iii) provide for notice to the division in the event of cancellation of the surety bond.

(h) a copy of the business license for the business as required by the municipality or county in which the business is located; and

(i) evidence of two years prior experience in operating a business.

(3) When seeking to renew a provider license, the provider shall:

(a) submit all of the items listed in R708-48-5(2)(a) through (c);

(b) submit an updated copy of the items listed in R708-48-5(2)(d) through (f) if the business has made any changes to these items since the provider applied for or renewed the provider license; and

(c) not be required to submit the items listed in R708-48-5(2)(g) through (i).

(4) Upon receipt of a completed provider application packet, the division shall review all of the materials submitted by the applicant to determine if the applicant meets the requirements in Title 53, Chapter 3, Part 10 and R708-48.

(5) If the division determines that the application packet contains all of the necessary information, the division shall conduct a site inspection of the business before a license may be granted.

(6)(a) If the business passes the division's inspection and meets all of the requirements for licensure found in Title 53, Chapter 3, Part 10 and R708-48, the applicant shall be granted a provider license.

(b) A provider license is not transferable.

(c) If a provider license is lost or destroyed, the provider may obtain a duplicate of the license by submitting the following to the division:

(i) a notarized affidavit which describes the date the license was lost or destroyed and the surrounding circumstances; and

(ii) a duplicate license fee.

(7) If the applicant does not meet the requirements for licensure found in Title 53, Chapter 3, Part 10 and R708-48, the application shall be denied and the applicant shall be issued a notice of denial with information regarding the reason for denial and process by which the applicant may appeal the division's decision.

#### **R708-48-6. Requirements for an Installer.**

(1) A licensed installer shall:

(a) possess a valid installer license when working as an installer;

(b) only be allowed to work under the supervision of the specific provider listed on the installer's license application;

(c) complete training for ignition interlock systems offered by the provider of the business for which they will be employed;

(d) complete any training administered by the division; and

(e) not be convicted of or have been found by the division to have engaged in conduct which constitutes a felony or a crime of moral turpitude;

#### **R708-48-7. Procedure to Obtain and Renew an Installer License.**

(1) To apply for or renew an installer license, an applicant shall submit a completed installer application packet to the division at 4501 South 2700 West, Salt Lake City, Utah.

(2) The packet shall include:

(a) a completed installer application form provided by the division, which has been signed and notarized by the applicant and all other required parties;

(b) an application or renewal fee, which shall be made payable to the department;

(c) one completed FBI applicant fingerprint card (Form FD-258) with the applicant's legible fingerprints and a check or money order made payable to the Utah Bureau of Criminal Identification to cover the fee associated with a criminal history background check; and

(d) a signed agreement verifying that the applicant has read and understands all of the laws and rules that are applicable to the ignition interlock system program.

(3) Upon receipt of a completed installer application packet, the division shall review all of the materials submitted by the applicant to determine if the applicant meets the requirements in Title 53, Chapter 3, Part 10 and R708-48.

(4)(a) If the applicant meets all of the requirements for licensure found in Title 53, Chapter 3, Part 10 and R708-48, the applicant shall be granted an installer license.

(b) Installer licenses are not transferable.

(c) If an installer license is lost or destroyed, the provider may obtain a duplicate of the license by submitting the following to the division:

(i) a notarized affidavit which describes the date the license was lost or destroyed and the surrounding circumstances; and

\_\_\_\_\_ (ii) the duplicate license fee.

\_\_\_\_\_ (5) If the applicant does not meet the requirements for licensure found in Title 53, Chapter 3, Part 10 and R708-48, the application shall be denied and the applicant shall be issued a notice of denial with information regarding the reason for denial and process by which the applicant may appeal the division's decision.

**R708-48-8. Business Inspection and Audit Procedures.**

\_\_\_\_\_ (1) The division shall conduct inspections and audits of a business and its records to verify compliance with Title 53, Chapter 3, Part 10 and R708-48.

\_\_\_\_\_ (2)(a) The premises and records of the business shall be available to the division immediately upon request for the purpose of an inspection or audit.

\_\_\_\_\_ (b) If it becomes necessary to remove records from the business for audit purposes, the division shall provide a receipt to the business which will include:

\_\_\_\_\_ (i) the name and location of the provider;

\_\_\_\_\_ (ii) the location of the business;

\_\_\_\_\_ (iii) the date that records are removed;

\_\_\_\_\_ (iv) a description of what records are removed;

\_\_\_\_\_ (v) the signature of an authorized representative of the business; and

\_\_\_\_\_ (vi) the signature of a division representative.

\_\_\_\_\_ (c) Upon return of the records, the receipt shall be updated with:

\_\_\_\_\_ (i) the date the records were returned;

\_\_\_\_\_ (ii) the signature of an authorized representative of the business who is receiving the records; and

\_\_\_\_\_ (iii) the signature of the division representative returning the records.

\_\_\_\_\_ (d) The division shall hold the records for the minimum amount of time necessary so an audit may occur without creating an unnecessary hardship or inconvenience to the business.

\_\_\_\_\_ (3)(a) A division representative shall prepare a written report of all inspections and audits.

\_\_\_\_\_ (b) A copy of these reports shall be maintained by the division for ten years.

\_\_\_\_\_ (c) Following a business inspection or audit, the division shall notify the business of the division's findings by sending a:

\_\_\_\_\_ (i) letter to the business indicating any problems, concerns or violations found during the inspection or audit along with an action plan detailing expectations regarding correction of the items identified; or

\_\_\_\_\_ (ii) notice of agency action.

**R708-48-9. Contracts.**

\_\_\_\_\_ (1)(a) A written contract approved by the division shall be executed by both the client and an authorized representative of the business before the business may render any services to a client.

\_\_\_\_\_ (b) If a client is under 18 years of age, the contract shall also be signed by a parent or legal guardian prior to any service.

\_\_\_\_\_ (c) A copy of the contract shall be given to the client and the original retained by the business.

\_\_\_\_\_ (d) The contract shall contain:

\_\_\_\_\_ (i) the client's:

\_\_\_\_\_ (A) full legal name;

\_\_\_\_\_ (B) date of birth;

\_\_\_\_\_ (C) driver license number;

\_\_\_\_\_ (D) license plate number;

\_\_\_\_\_ (E) full residential address; and

\_\_\_\_\_ (F) full mailing address;

\_\_\_\_\_ (ii) a description of the services to be provided by the business;

\_\_\_\_\_ (iii) a break-down of the costs associated with all services provided; and

\_\_\_\_\_ (iv) any requests made by the client.

\_\_\_\_\_ (2) The client shall be given a receipt upon payment of any fees.

**R708-48-10. Records.**

\_\_\_\_\_ (1) All of the business' records shall be kept accurately and completely.

\_\_\_\_\_ (2) The business shall maintain the following client records for a period of four years after the contractual obligation with the client has concluded:

\_\_\_\_\_ (a) documentation of any service provided to a client which include:

\_\_\_\_\_ (i) the client's:

\_\_\_\_\_ (A) name;

\_\_\_\_\_ (B) date of birth;

\_\_\_\_\_ (C) driver license number;

\_\_\_\_\_ (ii) license plate number;

\_\_\_\_\_ (iii) type of service provided;

\_\_\_\_\_ (iv) exact date the service was performed;

\_\_\_\_\_ (v) name of the installer and installer ID number; and

\_\_\_\_\_ (vi) ignition interlock device serial number and name of manufacturer;

\_\_\_\_\_ (b) original copies of client contracts;

\_\_\_\_\_ (c) original copies of receipts; and

\_\_\_\_\_ (3) The business' administrative records shall be maintained for the life of the business, including:

\_\_\_\_\_ (a) business plans;

\_\_\_\_\_ (b) licenses;

\_\_\_\_\_ (c) training records;

\_\_\_\_\_ (d) personnel records; and

\_\_\_\_\_ (e) surety bond information.

\_\_\_\_\_ (4) Records of the business shall be updated within 24 hours of service.

\_\_\_\_\_ (5) All ignition interlock system installations and removals must be reported electronically to the division in a manner specified by the division within 24 hours, and shall include the following:

\_\_\_\_\_ (a) the client's:

\_\_\_\_\_ (i) name;

\_\_\_\_\_ (ii) date of birth

\_\_\_\_\_ (iii) driver license number;

\_\_\_\_\_ (b) license plate number;

\_\_\_\_\_ (c) ignition interlock device serial number and name of manufacturer; and

\_\_\_\_\_ (d) date of installation or removal.

\_\_\_\_\_ (6) Each provider shall review the records of the business at least annually for completeness and accuracy.

\_\_\_\_\_ (7) If any records that the business is required to maintain are lost or destroyed, the provider shall be immediately file an affidavit with the division which states:

\_\_\_\_\_ (a) the date the record was lost or destroyed; and

\_\_\_\_\_ (b) the circumstances surrounding the loss or destruction.

R708-48-11. Grounds for the Denial, Cancellation or Revocation of a Provider or Installer License.

(1) A provider or installer may be denied, cancelled or revoked for any of the following:

(a) failure to comply with any of the provisions of Title 53, Chapter 3, Part 10, 41-6a-518, or R708-48; or

(b) falsification of any records or other required information relating to the Ignition Interlock System program.

(2)(a) In determining whether denial, cancellation or revocation is appropriate, the division shall consider the provider's or installer's involvement and the severity of the violation.

(b) In lieu of cancelling or revoking a license, the division may elect to place the provider or installer on probation if warranted by the nature of the violation.

**R708-48-12. Adjudicative Proceedings.**

(1) All adjudicative proceedings set forth in this section shall be conducted informally as provided in Section 63G-4-202.

(2) The division shall initiate agency action against an provider or installer with a notice of agency action in accordance with Section 63G-4-201.

(3)(a) An ignition interlock system provider or ignition interlock system installer who receives a notice of agency action indicating that the division intends to deny, cancel or revoke a license may request a hearing by filing a written request for hearing with the division within 10 calendar days from the date the notice of agency action is issued.

(b) If a timely request for hearing is filed, the agency action shall be stayed until the division's hearing officer issues a written decision.

(c) A hearing shall be held before the division's hearing officer within 30 calendar days from the day that the division receives the written request for hearing, unless agreed to by the parties.

(d) At the hearing, the provider or installer shall have an opportunity to demonstrate why the division should not take agency action.

(e) The hearing officer shall issue a written decision within 10 business days after the hearing in accordance with Section 63G-4-203.

(f) The written decision of the hearing officer shall constitute final agency action and is subject to judicial review in accordance with Section 63G-4-402.

**KEY: Ignition Interlock System Program**

**Date of Enactment or Last Substantive Amendment: 2012**

**Authorizing, Implemented, or Interpreted Law: Title 53, Chapter 3, Part 10**

**Tax Commission, Administration  
R861-1A-20**

**Time of Appeal Pursuant to Utah Code Ann. Sections 59-1-301, 59-1-501, 59-2-1007, 59-7-517, 59-10-532, 59-10-533, 59-10-535, 59-12-114, 59-13-210, 63G-4-201, 63G-4- 401, 68-3-7, and 68-3-8.5**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 36694  
FILED: 08/27/2012

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The proposed amendment updates outdated statutory citations.

**SUMMARY OF THE RULE OR CHANGE:** The proposed amendment deletes references to statutes that have been repealed and replaces those references with the correct statutory citation.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 59- 2-1007 and Section 59-1-1410 and Section 59-1-301 and Section 59-1-501 and Section 59-10-535 and Section 59-12-114 and Section 59-13-210 and Section 59-7-51 and Section 63G-4- 401 and Section 63G-4-201 and Section 68-3-7 and Section 68-3-8.5

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** None--The proposed amendment updates statutory references to match recent legislative changes. There is no change in agency practice.
- ◆ **LOCAL GOVERNMENTS:** None--The proposed amendment updates statutory references to match recent legislative changes. There is no change in agency practice.
- ◆ **SMALL BUSINESSES:** None--The proposed amendment updates statutory references to match recent legislative changes. There is no change in agency practice.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--The proposed amendment updates statutory references to match recent legislative changes. There is no change in agency practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None-- The proposed amendment updates statutory references to match recent legislative changes. There is no change in agency practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes to the statute reference do not change agency practice. Therefore, there is no fiscal impact from this amendment.

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](mailto:cj@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

AUTHORIZED BY: Michael Cragun, Tax Commissioner

**R861. Tax Commission, Administration.**

**R861-1A. Administrative Procedures.**

**R861-1A-20. Time of Appeal Pursuant to Utah Code Ann. Sections 59-1-301, 59-1-501, 59-1-1410, 59- 2-1007, 59-7-517, [59-10-532, 59-10-533, ]59-10-535, 59-12-114, 59-13-210, 63G-4-201, 63G-4- 401, 68-3-7, and 68-3-8.5.**

(1) A request for a hearing to correct a centrally assessed property tax assessment pursuant to Section 59-2-1007 must be in writing. The request is deemed to be timely if:

(a) it is received in the commission offices on or before the close of business of the last day of the time frame provided by statute; or

(b) the date of the postmark on the envelope or cover indicates that the request was mailed on or before June 1.

(c) A request for a hearing that is mailed but not received in the commission offices shall be considered timely filed if the sender complies with the provisions of Subsection 68-3-8.5(2)(b) and (c).

(2) Except as provided in Subsection (3), a petition for redetermination of a deficiency must be received in the commission offices no later than 30 days from the date of a notice that creates the right to appeal. The petition is deemed to be timely if:

(a) in the case of mailed or hand-delivered documents:

(i) the petition is received in the commission offices on or before the close of business of the last day of the 30-day period; or

(ii) the date of the postmark on the envelope or cover indicates that the request was mailed on or before the last day of the 30-day period; or

(b) in the case of electronically-filed documents, the petition is received no later than midnight of the last day of the 30-day period.

(c) A petition for redetermination that is mailed but not received in the commission offices shall be considered timely filed if the sender complies with the provisions of Subsection 68-3-8.5(2) (b) and (c).

(3) A petition for redetermination of a claim for refund filed in accordance with [~~Sections 59-10-532 or 59-10-533~~]59-1-1410 is deemed to be timely if:

(a) in the case of mailed or hand-delivered documents:

(i) the petition is received in the commission offices on or before the close of business of the last day of the time frame provided by statute; or

(ii) the date of the postmark on the envelope or cover indicates that the request was mailed on or before the last day of the time frame provided by statute; or

(b) in the case of electronically-filed documents, the petition is received no later than midnight of the last day of the time frame provided by statute.

(c) A petition for redetermination of a claim for refund that is mailed but not received in the commission offices shall be considered timely filed if the sender complies with the provisions of Subsection 68-3-8.5(2)(b) and (c).

(4)(a) An appeal of an action taken by the Motor Vehicle Division under Title 41, Chapter 1a, or the Motor Vehicle Enforcement Division under Title 41, Chapter 3, must be received in the commission offices no later than 30 days from the date of a notice that creates the right to appeal.

(b) An appeal under Subsection (4)(a) is deemed to be timely if:

(i) in the case of mailed or hand-delivered documents:

(A) the petition is received in the commission offices on or before the close of business of the last day of the 30-day time period; or

(B) the date of the postmark on the envelope or cover indicates that the request was mailed on or before the last day of the 30-day time period; or

(ii) in the case of electronically-filed documents, the petition is received no later than midnight of the last day of the 30-day time period.

(c) An appeal of an action that is mailed but not received in the commission offices shall be considered timely filed if the sender complies with the provisions of Subsection 68-3-8.5(2)(b) and (c).

(5) Any party adversely affected by an order of the commission may seek judicial review within the time frame provided by statute. Copies of the appeal shall be served upon the commission and upon the Office of the Attorney General.

**KEY: developmental disabilities, grievance procedures, taxation, disclosure requirements**

**Date of Enactment or Last Substantive Amendment: [July 26,] 2012**



**Notice of Continuation: January 3, 2012**

**Authorizing, and Implemented or Interpreted Law: 10-1-405; 41-1a-209; 52-4-207; 59-1-205; 59-1-207; 59-1-210; 59-1-301; 59-1-302.1; 59-1-304; 59-1-401; 59-1-403; 59-1-404; 59-1-405; 59-1-501; 59-1-502.5; 59-1-602; 59-1-611; 59-1-705; 59-1-706; 59-1-1004; 59-1-1404; 59-7-505; 59-10-512; 59-10-532; 59-10-533; 59-10-535; 59-12-107; 59-12-114; 59-12-118; 59-13-206; 59-13-210; 59-13-307; 59-10-544; 59-14-404; 59-2-212; 59-2-701; 59-2-705; 59-2-1003; 59-2-1004; 59-2-1006; 59-2-1007; 59-2-704; 59-2-924; 59-7-517; 63G-3-301; 63G-4-102; 76-8-502; 76-8-503; 59-2-701; 63G-4-201; 63G-4-202; 63G-4-203; 63G-4-204; 63G-4-205 through 63G-4-209; 63G-4-302; 63G-4-401; 63G-4-503; 63G-3-201(2); 68-3-7; 68-3-8.5; 69-2-5; 42 USC 12201; 28 CFR 25.107 1992 Edition**

**Tax Commission, Administration**  
**R861-1A-46**  
**Procedures for Purchaser Refund**  
**Requests Pursuant to Utah Code Ann.**  
**Sections 59-1-1410 and 59-12-110**

**NOTICE OF PROPOSED RULE**

(Amendment)  
 DAR FILE NO.: 36695  
 FILED: 08/27/2012

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The proposed rule provides guidance for certain persons applying for a sales tax refund.

**SUMMARY OF THE RULE OR CHANGE:** The proposed rule defines a purchaser refund request as a request for a refund of sales taxes submitted by a person other than the seller that originally collected and remitted the sales tax to the Tax Commission; indicates the information that must be provided to the Tax Commission when submitting a purchaser refund request; provides that an applicant that qualifies may choose to have the purchaser refund request reviewed by a sampling method, rather than a 100 percent review of the transactions included in the refund request; and provides that a purchaser refund request will be decreased by the amount of those transactions for which required information is not provided to the Tax Commission within the specified time period, and will be treated as dismissals that may be appealed only on the issue of whether the required information was received by the Tax Commission within the specified time.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 59-1-1410 and Section 59-12-110

**ANTICIPATED COST OR SAVINGS TO:**  
 ♦ **THE STATE BUDGET:** None--The proposed section indicates how to apply for certain sales tax refunds.

- ♦ **LOCAL GOVERNMENTS:** None--The proposed section indicates how to apply for certain sales tax refunds.
- ♦ **SMALL BUSINESSES:** None--The proposed section indicates how to apply for certain sales tax refunds.
- ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--The proposed section indicates how to apply for certain sales tax refunds.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** None--The proposed section indicates how a person shall apply for a sales tax refund when that person is not the seller that originally collected and remitted the sales tax to the Tax Commission. While in most cases, the application process mirrors the long-standing practice of the division, an applicant that qualifies for and chooses the sampling method of review will provide less information to the Tax Commission than currently.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This proposed application process for certain sales tax refunds creates no fiscal impact.

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](mailto:cj@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

AUTHORIZED BY: Michael Cragun, Tax Commissioner

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**R861. Tax Commission, Administration.**  
**R861-1A. Administrative Procedures.**  
**R861-1A-46. Procedures for Purchaser Refund Requests Pursuant to Utah Code Ann. Sections 59-1-1410 and 59-12-110.**  
(1) Definitions.  
(a) "Division" means the Taxpayer Services Division of the commission.  
(b) "Purchaser refund request" means:  
(i) a refund request for sales tax overpaid; and  
(ii) submitted by a person other than the seller that originally collected and remitted the sales tax to the commission.  
(c) "Required information and documents" means, for each transaction included in a purchaser refund request:

\_\_\_\_\_ (i) a description of the item for which a refund is requested;

\_\_\_\_\_ (ii) the invoiced transaction date;

\_\_\_\_\_ (iii) the taxable purchase amount;

\_\_\_\_\_ (iv) the tax rate applied to the purchase amount;

\_\_\_\_\_ (v) the invoice number;

\_\_\_\_\_ (vi) invoices or receipts that show the items purchased and sales tax charged;

\_\_\_\_\_ (vii) the sales tax paid;

\_\_\_\_\_ (viii) the reason and basis in Utah law for exempting or excluding the item from sales tax;

\_\_\_\_\_ (ix) documentation that clearly and thoroughly verifies that the item qualifies for a sales tax exemption or exclusion;

\_\_\_\_\_ (x) the amount of sales tax overpaid;

\_\_\_\_\_ (xi) proof of payment of sales tax, such as a canceled check, bank statement, credit card statement or receipt, or letter from the seller;

\_\_\_\_\_ (xii) if an agent applies for the refund on behalf of a purchaser, a power of attorney;

\_\_\_\_\_ (xiii) the name and address of the seller; and

\_\_\_\_\_ (xiv) a signed statement that the seller that calculated and remitted the sales tax;

\_\_\_\_\_ (A) has not provided a sales tax refund or credit; and

\_\_\_\_\_ (B) will not be asked to provide a sales tax refund or credit.

\_\_\_\_\_ (2) A person who submits a purchaser refund request shall, at the time the application for the refund is filed, indicate the number of transactions included in the purchaser refund request.

\_\_\_\_\_ (3) The division may use a sampling method to project the amount of a sales tax refund for which a purchaser refund request qualifies if:

\_\_\_\_\_ (a) the number of transactions described in Subsection (2) meets the minimum level of 500 transactions set forth in guidelines contained on the application; and

\_\_\_\_\_ (b) the person submitting the purchaser refund request elects to have the division use a sampling methodology outlined in the application.

\_\_\_\_\_ (4) If the person submitting the purchaser refund request does not qualify for and elect an evaluation by a sampling method, the division shall evaluate the request based on 100 percent of the transactions included in the request.

\_\_\_\_\_ (5) Review Based on 100 Percent of the Transactions.

\_\_\_\_\_ (a)(i) In the case of a review based on 100 percent of the transactions, a person submitting a purchaser refund request shall include the required information and documents with the application to the division.

\_\_\_\_\_ (ii) The items described in Subsection (5)(a)(i) shall be provided to the division in the format and manner prescribed by the division.

\_\_\_\_\_ (b) If the application is not accompanied by all of the required information and documents, the division shall send a notice to the person that submitted the purchaser refund request.

\_\_\_\_\_ (c) The notice described in Subsection (5)(b) shall:

\_\_\_\_\_ (i) indicate the required information and documents that are missing; and

\_\_\_\_\_ (ii) allow the person submitting the purchaser refund request 30 days to provide the missing required information and documents to the division.

\_\_\_\_\_ (d) If the division has not received all of the required information and documents within the time period described in Subsection (5)(c), the division shall:

\_\_\_\_\_ (i) evaluate the purchaser refund request based solely on the required information and documents received; and

\_\_\_\_\_ (ii) dismiss for lack of evidence requests for refunds on items for which the division has not received the required information and documents.

\_\_\_\_\_ (e)(i) Dismissals under Subsection (5)(d) may be appealed to the commission.

\_\_\_\_\_ (ii) On an appeal under Subsection (5)(e)(i), the only matter that will be reviewed by the commission is whether the required information and documents were received by the division within the time period prescribed under Subsection (5)(c).

\_\_\_\_\_ (6) Review Based on Sampling.

\_\_\_\_\_ (a) In the case of a review based on sampling, a person submitting a purchaser refund request shall include the following information for each transaction included in the purchaser refund request with the application to the division:

\_\_\_\_\_ (i) the invoice number;

\_\_\_\_\_ (ii) the invoiced transaction date;

\_\_\_\_\_ (iii) the taxable purchase amount;

\_\_\_\_\_ (iv) the tax rate applied to the purchase amount;

\_\_\_\_\_ (v) the sales tax paid;

\_\_\_\_\_ (vi) the amount of sales tax overpaid;

\_\_\_\_\_ (vii) the name and address of the seller

\_\_\_\_\_ (viii) a description of the item for which a refund is requested; and

\_\_\_\_\_ (ix) the reason and basis in Utah law the item is exempt or excluded from sales tax.

\_\_\_\_\_ (b) The items described in Subsection (6)(a) shall be provided to the division in the format and manner prescribed by the division.

\_\_\_\_\_ (c) From the information supplied under Subsection (6)(a), and in accordance with the sampling guidelines found on the application, the division shall:

\_\_\_\_\_ (i) determine the items that will be included in the sample;

\_\_\_\_\_ (ii) notify the person submitting the purchaser refund request of the items that will be included in the sample and for which the required information and documents must be submitted to the division; and

\_\_\_\_\_ (iii) allow the person submitting the purchaser refund request 30 days to provide the required information and documents to the division in the format and manner prescribed by the division.

\_\_\_\_\_ (d) Required information and documents not received by the end of the period described in Subsection(6)(c) shall be:

\_\_\_\_\_ (i) considered errors; and

\_\_\_\_\_ (ii) included in the overall error factor by which the purchaser refund request is decreased.

\_\_\_\_\_ (e)(i) Errors under Subsection (6)(d) may be appealed to the commission.

\_\_\_\_\_ (ii) On an appeal under Subsection (6)(e)(i), the only matter that will be reviewed by the commission is whether the required information and documents were received by the division within the time period prescribed under Subsection (6)(c).

**KEY:** developmental disabilities, grievance procedures, taxation, disclosure requirements

**Date of Enactment or Last Substantive Amendment:** [~~August 27,~~2012

**Notice of Continuation:** January 3, 2012

**Authorizing, Implemented, or Interpreted Law:** 10-1-405; 41-1a-209; 52-4-207; 59-1-205; 59-1-207; 59-1-210; 59-1-301; 59-1-302.1; 59-1-304; 59-1-401; 59-1-403; 59-1-404; 59-1-501; 59-1-502.5; 59-1-602; 59-1-611; 59-1-705; 59-1-706; 59-1-1004; 59-1-1404; 59-7-505; 59-10-512; 59-10-532; 59-10-533; 59-10-535; 59-12-107; 59-12-114; 59-12-118; 59-13-206; 59-13-210; 59-13-307; 59-10-544; 59-14-404; 59-2-212; 59-2-701; 59-2-705; 59-2-1003; 59-2-1004; 59-2-1006; 59-2-1007; 59-2-704; 59-2-924; 59-7-517; 63G-3-301; 63G-4-102; 76-8-502; 76-8-503; 59-2-701; 63G-4-201; 63G-4-202; 63G-4-203; 63G-4-204; 63G-4-205 through 63G-4-209; 63G-4-302; 63G-4-401; 63G-4-503; 63G-3-201(2); 68-3-7; 68-3-8.5; 69-2-5; 42 USC 12201; 28 CFR 25.107 1992 Edition

**Tax Commission, Property Tax  
R884-24P-33  
2012 Personal Property Valuation  
Guides and Schedules Pursuant to  
Utah Code Ann. Section 59-2-301**

**NOTICE OF PROPOSED RULE  
(Amendment)  
DAR FILE NO.: 36696  
FILED: 08/27/2012**

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The valuation guides and schedules contained in this rule are reviewed and updated annually by the Property Tax Division. The personal property guides and schedules are used for local property tax valuation and assessment of business personal property and certain motor vehicles by county assessors.

**SUMMARY OF THE RULE OR CHANGE:** Section 59-2-107 authorizes the State Tax Commission to promulgate rules that define classes of items considered to be personal property and provide valuation percent good schedules to value locally assessed personal property. County assessors must use the percent good schedules as contained in this rule. Any deviation which affects an entire class or type of personal property requires a written report documenting the schedule change to be submitted to the Tax Commission for approval prior to use. H.B. 387 (2012 General Session) requires the repeal of the schedule for short life expensed property and the creation of a new schedule for noncapitalized personal property.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 59-2-301

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** In the aggregate, the amount of savings or cost to individuals and business is undetermined. Affected persons pay property taxes based on increased or decreased personal property values and the change in the annual property tax rate. The proposed personal property schedules in this rule are raised, lowered, or remain the same for 2013 based upon the type and age of the property. Since some schedules are increased, some decreased, and, under H.B. 387 (2012) deleted and created, it is not possible to determine the change to affected persons without knowing the 2013 personal property mix compared to the previous year.

♦ **LOCAL GOVERNMENTS:** In the aggregate, the amount of savings or cost to individuals and business is undetermined. Affected persons pay property taxes based on increased or decreased personal property values and the change in the annual property tax rate. The proposed personal property schedules in this rule are raised, lowered, or remain the same for 2013 based upon the type and age of the property. Since some schedules are increased, some decreased, and, under H.B. 387 (2012) deleted and created, it is not possible to determine the change to affected persons without knowing the 2013 personal property mix compared to the previous year.

♦ **SMALL BUSINESSES:** In the aggregate, the amount of savings or cost to individuals and business is undetermined. Affected persons pay property taxes based on increased or decreased personal property values and the change in the annual property tax rate. The proposed personal property schedules in this rule are raised, lowered, or remain the same for 2013 based upon the type and age of the property. Since some schedules are increased, some decreased, and, under H.B. 387 (2012) deleted and created, it is not possible to determine the change to affected persons without knowing the 2013 personal property mix compared to the previous year.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** In the aggregate, the amount of savings or cost to individuals and business is undetermined. Affected persons pay property taxes based on increased or decreased personal property values and the change in the annual property tax rate. The proposed personal property schedules in this rule are raised, lowered, or remain the same for 2013 based upon the type and age of the property. Since some schedules are increased, some decreased, and, under H.B. 387 (2012) deleted and created, it is not possible to determine the change to affected persons without knowing the 2013 personal property mix compared to the previous year.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Local business owners and property tax practitioners will once again be required to be aware of new percent good figures. This is an annual occurrence; therefore, the compliance cost in completing the assessment process will not change. The change in taxes charged for these businesses depends entirely on the owner's mix of personal property since some percent good schedules are increasing and others

decreasing, and, under H.B. 387 (2012), one schedule was deleted and another created. For example, the owner of a business may discard some personal property items and add new equipment or replace equipment which may increase or decrease personal property values. In addition, the personal property percent good schedule percentages often change from the previous year due to current economic conditions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This annual update of the schedules may or may not have fiscal impact on businesses. Tax rates and property acquisition or deletion is likely to have a greater bearing on overall tax impact to a business.

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](mailto:cj@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

AUTHORIZED BY: Michael Cragun, Tax Commissioner

**R884. Tax Commission, Property Tax.**

**R884-24P. Property Tax.**

**R884-24P-33. [2012]2013 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301.**

(1) Definitions.

(a)(i) "Acquisition cost" does not include indirect costs such as debugging, licensing fees and permits, insurance, or security.

(ii) Acquisition cost may correspond to the cost new for new property, or cost used for used property.

(b)(i) "Actual cost" includes the value of components necessary to complete the vehicle, such as tanks, mixers, special containers, passenger compartments, special axles, installation, engineering, erection, or assembly costs.

(ii) Actual cost does not include sales or excise taxes, maintenance contracts, registration and license fees, dealer charges, tire tax, freight, or shipping costs.

(c) "Cost new" means the actual cost of the property when purchased new.

(i) Except as otherwise provided in this rule, the Tax Commission and assessors shall rely on the following sources to determine cost new:

(A) documented actual cost of the new or used vehicle; or  
(B) recognized publications that provide a method for approximating cost new for new or used vehicles.

(ii) For the following property purchased used, the taxing authority may determine cost new by dividing the property's actual cost by the percent good factor for that class:

(A) class 6 heavy and medium duty trucks;

(B) class 13 heavy equipment;

(C) class 14 motor homes;

(D) class 17 vessels equal to or greater than 31 feet in length; and

(E) class 21 commercial trailers.

(d) For purposes of Sections 59-2-108 and 59-2-1115, "item of taxable tangible personal property" means a piece of equipment, machinery, furniture, or other piece of tangible personal property that is functioning at its highest and best use for the purpose it was designed and constructed and is generally capable of performing that function without being combined with other items of personal property. An item of taxable tangible personal property is not an individual component part of a piece of machinery or equipment, but the piece of machinery or equipment. For example, a fully functioning computer is an item of taxable tangible personal property, but the motherboard, hard drive, tower, or sound card are not.

(e) "Percent good" means an estimate of value, expressed as a percentage, based on a property's acquisition cost or cost new, adjusted for depreciation and appreciation of all kinds.

(i) The percent good factor is applied against the acquisition cost or the cost new to derive taxable value for the property.

(ii) Percent good schedules are derived from an analysis of the Internal Revenue Service Class Life, the Marshall and Swift Cost index, other data sources or research, and vehicle valuation guides such as Penton Price Digests.

(2) Each year the Property Tax Division shall update and publish percent good schedules for use in computing personal property valuation.

(a) Proposed schedules shall be transmitted to county assessors and interested parties for comment before adoption.

(b) A public comment period will be scheduled each year and a public hearing will be scheduled if requested by ten or more interested parties or at the discretion of the Commission.

(c) County assessors may deviate from the schedules when warranted by specific conditions affecting an item of personal property. When a deviation will affect an entire class or type of personal property, a written report, substantiating the changes with verifiable data, must be presented to the Commission. Alternative schedules may not be used without prior written approval of the Commission.

(d) A party may request a deviation from the value established by the schedule for a specific item of property if the use of the schedule does not result in the fair market value for the property at the retail level of trade on the lien date, including any relevant installation and assemblage value.

(3) The provisions of this rule do not apply to:

(a) a vehicle subject to the age-based uniform fee under Section 59-2-405.1;

(b) the following personal property subject to the age-based uniform fee under Section 59-2-405.2:

- (i) an all-terrain vehicle;
- (ii) a camper;
- (iii) an other motorcycle;
- (iv) an other trailer;
- (v) a personal watercraft;
- (vi) a small motor vehicle;
- (vii) a snowmobile;
- (viii) a street motorcycle;
- (ix) a tent trailer;
- (x) a travel trailer; and
- (xi) a vessel, including an outboard motor of the vessel,

that is less than 31 feet in length and

(c) an aircraft subject to the uniform statewide fee under Section 59-2-404.

(4) Other taxable personal property that is not included in the listed classes includes:

(a) Supplies on hand as of January 1 at 12:00 noon, including office supplies, shipping supplies, maintenance supplies, replacement parts, lubricating oils, fuel and consumable items not held for sale in the ordinary course of business. Supplies are assessed at total cost, including freight-in.

(b) Equipment leased or rented from inventory is subject to ad valorem tax. Refer to the appropriate property class schedule to determine taxable value.

(c) Property held for rent or lease is taxable, and is not exempt as inventory. For entities primarily engaged in rent-to-own, inventory on hand at January 1 is exempt and property out on rent-to-own contracts is taxable.

(5) Personal property valuation schedules may not be appealed to, or amended by, county boards of equalization.

(6) All taxable personal property, other than personal property subject to an age-based uniform fee under Section 59-2-405.1 or 59-2-405.2, or a uniform statewide fee under Section 59-2-404, is classified by expected economic life as follows:

(a) Class 1 - Short Life Property. Property in this class has a typical life of more than one year and less than four years. It is fungible in that it is difficult to determine the age of an item retired from service.

(i) Examples of property in the class include:

- (A) barricades/warning signs;
- (B) library materials;
- (C) patterns, jigs and dies;
- (D) pots, pans, and utensils;
- (E) canned computer software;
- (F) hotel linen;
- (G) wood and pallets;
- (H) video tapes, compact discs, and DVDs; and
- (I) uniforms.

(ii) With the exception of video tapes, compact discs, and DVDs, taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

(iii) A licensee of canned computer software shall use one of the following substitutes for acquisition cost of canned computer software if no acquisition cost for the canned computer software is stated:

- (A) retail price of the canned computer software;

(B) if a retail price is unavailable, and the license is a nonrenewable single year license agreement, the total sum of expected payments during that 12-month period; or

(C) if the licensing agreement is a renewable agreement or is a multiple year agreement, the present value of all expected licensing fees paid pursuant to the agreement.

(iv) Video tapes, compact discs, and DVDs are valued at \$15.00 per tape or disc for the first year and \$3.00 per tape or disc thereafter.

TABLE 1

Year of Acquisition	Percent Good of Acquisition Cost
<del>[11]</del> 12	71%
<del>[10]</del> 11	<del>[41%]</del> 42%
<del>[09]</del> 10 and prior	<del>[10%]</del> 11%

(b) Class 2 - Computer Integrated Machinery.

(i) Machinery shall be classified as computer integrated machinery if all of the following conditions are met:

(A) The equipment is sold as a single unit. If the invoice breaks out the computer separately from the machine, the computer must be valued as Class 12 property and the machine as Class 8 property.

(B) The machine cannot operate without the computer and the computer cannot perform functions outside the machine.

(C) The machine can perform multiple functions and is controlled by a programmable central processing unit.

(D) The total cost of the machine and computer combined is depreciated as a unit for income tax purposes.

(E) The capabilities of the machine cannot be expanded by substituting a more complex computer for the original.

(ii) Examples of property in this class include:

- (A) CNC mills;
- (B) CNC lathes;
- (C) high-tech medical and dental equipment such as MRI equipment, CAT scanners, and mammography units.

(iii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 2

Year of Acquisition	Percent Good of Acquisition Cost
<del>[11]</del> 12	90%
<del>[10]</del> 11	<del>[80%]</del> 82%
<del>[09]</del> 10	<del>[68%]</del> 71%
<del>[08]</del> 09	<del>[58%]</del> 59%
<del>[07]</del> 08	48%
<del>[06]</del> 07	38%
<del>[05]</del> 06	<del>[27%]</del> 26%
<del>[04]</del> 05 and prior	14%

(c) Class 3 - Short Life Trade Fixtures. Property in this class generally consists of electronic types of equipment and includes property subject to rapid functional and economic obsolescence or severe wear and tear.

(i) Examples of property in this class include:

- (A) office machines;
- (B) alarm systems;

- (C) shopping carts;
  - (D) ATM machines;
  - (E) small equipment rentals;
  - (F) rent-to-own merchandise;
  - (G) telephone equipment and systems;
  - (H) music systems;
  - (I) vending machines;
  - (J) video game machines; and
  - (K) cash registers and point of sale equipment.
- (ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 3

Year of Acquisition	Percent Good of Acquisition Cost
[11] 12	84%
[10] 11	[68%] 70%
[09] 10	[51%] 53%
[08] 09	35%
[07] 08 and prior	18%

~~[(d)]~~ (d) Class 4 Short Life Expensed Property.

~~(i) Property shall be classified as short life expensed property if all of the following conditions are met:~~

~~(A) the property is an item of taxable tangible personal property with an acquisition cost of \$1,000 or less;~~

~~(B) the property is the same type as the following personal property:~~

- ~~(I) short life property;~~
- ~~(H) short life trade fixtures; or~~
- ~~(III) computer hardware; and~~

~~(C) the owner of the property elects to have the property assessed as short life expensed property.~~

~~(ii) Examples of property in this class include:~~

- ~~(A) short life property defined in Class 1;~~
- ~~(B) short life trade fixtures defined in Class 3; and~~
- ~~(C) computer hardware defined in Class 12.~~

~~(iii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.~~

TABLE 4

Year of Acquisition	Percent Good of Acquisition Cost
11	66%
10	50%
09	30%
08	15%
07	10%

[(e)](d) Class 5 - Long Life Trade Fixtures. Class 5 property is subject to functional obsolescence in the form of style changes.

- (i) Examples of property in this class include:
  - (A) furniture;
  - (B) bars and sinks;
  - (C) booths, tables and chairs;
  - (D) beauty and barber shop fixtures;
  - (E) cabinets and shelves;

- (F) displays, cases and racks;
  - (G) office furniture;
  - (H) theater seats;
  - (I) water slides; and
  - (J) signs, mechanical and electrical.
- (ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 5

Year of Acquisition	Percent Good of Acquisition Cost
[11] 12	91%
[10] 11	[82%] 84%
[09] 10	[71%] 75%
[08] 09	63%
[07] 08	54%
[06] 07	[46%] 45%
[05] 06	36%
[04] 05	[26%] 25%
[03] 04 and prior	13%

~~[(f)]~~(e) Class 6 - Heavy and Medium Duty Trucks.

(i) Examples of property in this class include:

- (A) heavy duty trucks;
- (B) medium duty trucks;
- (C) crane trucks;
- (D) concrete pump trucks; and
- (E) trucks with well-boring rigs.

(ii) Taxable value is calculated by applying the percent good factor against the cost new.

(iii) Cost new of vehicles in this class is defined as follows:

- (A) the documented actual cost of the vehicle for new vehicles; or
- (B) 75 percent of the manufacturer's suggested retail price.

(iv) For state assessed vehicles, cost new shall include the value of attached equipment.

(v) The [2012]2013 percent good applies to [2012]2013 models purchased in [2011]2012.

(vi) Trucks weighing two tons or more have a residual taxable value of \$1,750.

TABLE 6

Model Year	Percent Good of Cost New
[12] 13	90%
[11] 12	[71%] 68%
[10] 11	[66%] 63%
[09] 10	[60%] 57%
[08] 09	[54%] 52%
[07] 08	[49%] 47%
[06] 07	[43%] 42%
[05] 06	[38%] 36%
[04] 05	[32%] 31%
[03] 04	[27%] 26%
[02] 03	[21%] 20%
[01] 02	15%
[00] 01	10%
[99] 00 and prior	4%

~~(g)~~(f) Class 7 - Medical and Dental Equipment. Class 7 property is subject to a high degree of technological development by the health industry.

- (i) Examples of property in this class include:
  - (A) medical and dental equipment and instruments;
  - (B) exam tables and chairs;
  - (C) microscopes; and
  - (D) optical equipment.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 7

Year of Acquisition	Percent Good of Acquisition Cost
<del>[11]</del> <u>12</u>	93%
<del>[10]</del> <u>11</u>	<del>[85%]</del> <u>88%</u>
<del>[09]</del> <u>10</u>	<del>[76%]</del> <u>80%</u>
<del>[08]</del> <u>09</u>	70%
<del>[07]</del> <u>08</u>	63%
<del>[06]</del> <u>07</u>	<del>[57%]</del> <u>56%</u>
<del>[05]</del> <u>06</u>	50%
<del>[04]</del> <u>05</u>	<del>[43%]</del> <u>42%</u>
<del>[03]</del> <u>04</u>	<del>[33%]</del> <u>34%</u>
<del>[02]</del> <u>03</u>	23%
<del>[01]</del> <u>02</u> and prior	<del>[11%]</del> <u>12%</u>

~~(h)~~(g) Class 8 - Machinery and Equipment. Property in this class is subject to considerable functional and economic obsolescence created by competition as technologically advanced and more efficient equipment becomes available.

- (i) Examples of property in this class include:
  - (A) manufacturing machinery;
  - (B) amusement rides;
  - (C) bakery equipment;
  - (D) distillery equipment;
  - (E) refrigeration equipment;
  - (F) laundry and dry cleaning equipment;
  - (G) machine shop equipment;
  - (H) processing equipment;
  - (I) auto service and repair equipment;
  - (J) mining equipment;
  - (K) ski lift machinery;
  - (L) printing equipment;
  - (M) bottling or cannery equipment;
  - (N) packaging equipment; and
  - (O) pollution control equipment.

(ii) Except as provided in Subsection (6)(g)(iii), taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

(iii) (A) Notwithstanding Subsection (6)(g)(ii), the taxable value of the following oil refinery pollution control equipment required by the federal Clean Air Act shall be calculated pursuant to Subsection (6)(g)(iii)(B):

- (I) VGO (Vacuum Gas Oil) reactor;
- (II) HDS (Diesel Hydrotreater) reactor;
- (III) VGO compressor;
- (IV) VGO furnace;
- (V) VGO and HDS high pressure exchangers;
- (VI) VGO, SRU (Sulfur Recovery Unit), SWS (Sour Water Stripper), and TGU; (Tail Gas Unit) low pressure exchangers;

- (VII) VGO, amine, SWS, and HDS separators and drums;
- (VIII) VGO and tank pumps;
- (IX) TGU modules; and
- (X) VGO tank and air coolers.

(B) The taxable value of the oil refinery pollution control equipment described in Subsection (6)(g)(iii)(A) shall be calculated by:

- (I) applying the percent good factor in Table 8 against the acquisition cost of the property; and
- (II) multiplying the product described in Subsection (6)(g)(iii)(B)(I) by 50%.

TABLE 8

Year of Acquisition	Percent Good of Acquisition Cost
<del>[11]</del> <u>12</u>	93%
<del>[10]</del> <u>11</u>	<del>[85%]</del> <u>88%</u>
<del>[09]</del> <u>10</u>	<del>[76%]</del> <u>80%</u>
<del>[08]</del> <u>09</u>	70%
<del>[07]</del> <u>08</u>	63%
<del>[06]</del> <u>07</u>	<del>[57%]</del> <u>56%</u>
<del>[05]</del> <u>06</u>	50%
<del>[04]</del> <u>05</u>	<del>[43%]</del> <u>42%</u>
<del>[03]</del> <u>04</u>	<del>[33%]</del> <u>34%</u>
<del>[02]</del> <u>03</u>	23%
<del>[01]</del> <u>02</u> and prior	<del>[11%]</del> <u>12%</u>

~~(i)~~(h) Class 9 - Off-Highway Vehicles.

(i) Because Section 59-2-405.2 subjects off-highway vehicles to an age-based uniform fee, a percent good schedule is not necessary.

~~(j)~~(i) Class 10 - Railroad Cars. The Class 10 schedule was developed to value the property of railroad car companies. Functional and economic obsolescence is recognized in the developing technology of the shipping industry. Heavy wear and tear is also a factor in valuing this class of property.

(i) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 10

Year of Acquisition	Percent Good of Acquisition Cost
<del>[11]</del> <u>12</u>	94%
<del>[10]</del> <u>11</u>	<del>[89%]</del> <u>91%</u>
<del>[09]</del> <u>10</u>	<del>[81%]</del> <u>85%</u>
<del>[08]</del> <u>09</u>	77%
<del>[07]</del> <u>08</u>	72%
<del>[06]</del> <u>07</u>	<del>[69%]</del> <u>68%</u>
<del>[05]</del> <u>06</u>	64%
<del>[04]</del> <u>05</u>	<del>[60%]</del> <u>58%</u>
<del>[03]</del> <u>04</u>	<del>[53%]</del> <u>54%</u>
<del>[02]</del> <u>03</u>	<del>[45%]</del> <u>46%</u>
<del>[01]</del> <u>02</u>	<del>[36%]</del> <u>38%</u>
<del>[00]</del> <u>01</u>	<del>[27%]</del> <u>28%</u>
<del>[99]</del> <u>00</u>	19%
<del>[98]</del> <u>99</u> and prior	9%

~~(k)~~(j) Class 11 - Street Motorcycles.

(i) Because Section 59-2-405.2 subjects street motorcycles to an age-based uniform fee, a percent good schedule is not necessary.

~~(H)~~(k) Class 12 - Computer Hardware.

(i) Examples of property in this class include:

- (A) data processing equipment;
- (B) personal computers;
- (C) main frame computers;
- (D) computer equipment peripherals;
- (E) cad/cam systems; and
- (F) copiers.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 12

Year of Acquisition	Percent Good of Acquisition Cost
<del>[11]</del> 12	62%
<del>[10]</del> 11	46%
<del>[09]</del> 10	21%
<del>[08]</del> 09	9%
<del>[07]</del> 08 and prior	7%

~~(m)~~(l) Class 13 - Heavy Equipment.

(i) Examples of property in this class include:

- (A) construction equipment;
- (B) excavation equipment;
- (C) loaders;
- (D) batch plants;
- (E) snow cats; and
- (F) pavement sweepers.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

(iii) ~~[2012]~~2013 model equipment purchased in ~~[2011]~~2012 is valued at 100 percent of acquisition cost.

TABLE 13

Year of Acquisition	Percent Good of Acquisition Cost
<del>[11]</del> 12	<del>[53%]</del> 51%
<del>[10]</del> 11	<del>[60%]</del> 48%
<del>[09]</del> 10	<del>[47%]</del> 46%
<del>[08]</del> 09	<del>[44%]</del> 43%
<del>[07]</del> 08	<del>[41%]</del> 40%
<del>[06]</del> 07	<del>[38%]</del> 37%
<del>[05]</del> 06	<del>[35%]</del> 34%
<del>[04]</del> 05	<del>[32%]</del> 31%
<del>[03]</del> 04	<del>[29%]</del> 28%
<del>[02]</del> 03	<del>[26%]</del> 25%
<del>[01]</del> 02	<del>[23%]</del> 22%
<del>[00]</del> 01	<del>[19%]</del> 20%
<del>[99]</del> 00	<del>[16%]</del> 17%
<del>[98]</del> 99 and prior	12%

~~(n)~~(m) Class 14 - Motor Homes.

(i) Taxable value is calculated by applying the percent good against the cost new.

(ii) The ~~[2012]~~2013 percent good applies to ~~[2011]~~2013 models purchased in ~~[2011]~~2012.

(iii) Motor homes have a residual taxable value of \$1,000.

TABLE 14

Model Year	Percent Good of Cost New
<del>[12]</del> 13	90%
<del>[11]</del> 12	<del>[66%]</del> 70%
<del>[10]</del> 11	<del>[62%]</del> 66%
<del>[09]</del> 10	<del>[59%]</del> 62%
<del>[08]</del> 09	<del>[56%]</del> 58%
<del>[07]</del> 08	<del>[52%]</del> 54%
<del>[06]</del> 07	<del>[49%]</del> 50%
<del>[05]</del> 06	<del>[45%]</del> 47%
<del>[04]</del> 05	<del>[42%]</del> 43%
<del>[03]</del> 04	<del>[38%]</del> 39%
<del>[02]</del> 03	35%
<del>[01]</del> 02	31%
<del>[00]</del> 01	<del>[28%]</del> 27%
<del>[99]</del> 00	<del>[25%]</del> 23%
<del>[98]</del> 99	<del>[21%]</del> 19%
<del>[97]</del> 98	<del>[18%]</del> 15%
<del>[96]</del> 97 and prior	<del>[13%]</del> 11%

~~(o)~~(n) Class 15 - Semiconductor Manufacturing Equipment. Class 15 applies only to equipment used in the production of semiconductor products. Equipment used in the semiconductor manufacturing industry is subject to significant economic and functional obsolescence due to rapidly changing technology and economic conditions.

(i) Examples of property in this class include:

- (A) crystal growing equipment;
- (B) die assembly equipment;
- (C) wire bonding equipment;
- (D) encapsulation equipment;
- (E) semiconductor test equipment;
- (F) clean room equipment;
- (G) chemical and gas systems related to semiconductor manufacturing;
- (H) deionized water systems;
- (I) electrical systems; and
- (J) photo mask and wafer manufacturing dedicated to semiconductor production.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 15

Year of Acquisition	Percent Good of Acquisition Cost
<del>[11]</del> 12	47%
<del>[10]</del> 11	34%
<del>[09]</del> 10	24%
<del>[08]</del> 09	15%
<del>[07]</del> 08 and prior	6%

~~(p)~~(o) Class 16 - Long-Life Property. Class 16 property has a long physical life with little obsolescence.

(i) Examples of property in this class include:

- (A) billboards;
- (B) sign towers;
- (C) radio towers;



- (D) ski lift and tram towers;
- (E) non-farm grain elevators; and
- (F) bulk storage tanks.
- (ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

- (v) The ~~2012~~2013 percent good applies to ~~2012~~2013 models purchased in ~~2011~~2012.
- (vi) Property in this class has a residual taxable value of \$1,000.

TABLE 16

Year of Acquisition	Percent Good of Acquisition Cost
<del>11</del> 12	96%
<del>10</del> 11	<del>90%</del> 91%
<del>09</del> 10	<del>86%</del> 90%
<del>08</del> 09	84%
<del>07</del> 08	<del>81%</del> 82%
<del>06</del> 07	<del>80%</del> 79%
<del>05</del> 06	<del>78%</del> 77%
<del>04</del> 05	<del>77%</del> 75%
<del>03</del> 04	<del>73%</del> 74%
<del>02</del> 03	<del>68%</del> 69%
<del>01</del> 02	<del>61%</del> 63%
<del>00</del> 01	<del>55%</del> 57%
<del>99</del> 00	<del>49%</del> 50%
<del>98</del> 99	<del>42%</del> 44%
<del>97</del> 98	<del>35%</del> 37%
<del>96</del> 97	29%
<del>95</del> 96	22%
<del>94</del> 95	15%
<del>93</del> 94 and prior	8%

TABLE 17

Model Year	Percent Good of Cost New
<del>12</del> 13	90%
<del>11</del> 12	<del>59%</del> 63%
<del>10</del> 11	<del>57%</del> 60%
<del>09</del> 10	<del>55%</del> 58%
<del>08</del> 09	<del>53%</del> 55%
<del>07</del> 08	<del>51%</del> 53%
<del>06</del> 07	50%
<del>05</del> 06	<del>47%</del> 48%
<del>04</del> 05	<del>45%</del> 46%
<del>03</del> 04	<del>42%</del> 43%
<del>02</del> 03	<del>40%</del> 41%
<del>01</del> 02	<del>37%</del> 38%
<del>00</del> 01	<del>35%</del> 36%
<del>99</del> 00	<del>32%</del> 33%
<del>98</del> 99	<del>30%</del> 31%
<del>97</del> 98	<del>27%</del> 29%
<del>96</del> 97	<del>25%</del> 26%
<del>95</del> 96	<del>22%</del> 24%
<del>94</del> 95	<del>20%</del> 21%
<del>93</del> 94	<del>17%</del> 19%
<del>92</del> 93	<del>15%</del> 16%
<del>91</del> 92 and prior	12%

~~(+)~~(p) Class 17 - Vessels Equal to or Greater Than 31 Feet in Length.

- (i) Examples of property in this class include:
  - (A) houseboats equal to or greater than 31 feet in length;
  - (B) sailboats equal to or greater than 31 feet in length;

and

- (C) yachts equal to or greater than 31 feet in length.
- (ii) A vessel, including an outboard motor of the vessel, under 31 feet in length:

- (A) is not included in Class 17;
- (B) may not be valued using Table 17; and
- (C) is subject to an age-based uniform fee under Section 59-2-405.2.

(iii) Taxable value is calculated by applying the percent good factor against the cost new of the property.

(iv) The Tax Commission and assessors shall rely on the following sources to determine cost new for property in this class:

- (A) the following publications or valuation methods:
  - (I) the manufacturer's suggested retail price listed in the ABOS Marine Blue Book;

(II) for property not listed in the ABOS Marine Blue Book but listed in the NADA Marine Appraisal Guide, the NADA average value for the property divided by the percent good factor; or

(III) for property not listed in the ABOS Marine Blue Book or the NADA Appraisal Guide:

- (aa) the manufacturer's suggested retail price for comparable property; or
- (bb) the cost new established for that property by a documented valuation source; or
- (B) the documented actual cost of new or used property in this class.

~~(+)~~(q) Class 17a - Vessels Less Than 31 Feet in Length

(i) Because Section 59-2-405.2 subjects vessels less than 31 feet in length to an age-based uniform fee, a percent good schedule is not necessary.

~~(+)~~(r) Class 18 - Travel Trailers and Class 18a - Tent Trailers/Truck Campers.

(i) Because Section 59-2-405.2 subjects travel trailers and tent trailers/truck campers to an age-based uniform fee, a percent good schedule is not necessary.

~~(+)~~(s) Class 20 - Petroleum and Natural Gas Exploration and Production Equipment. Class 20 property is subject to significant functional and economic obsolescence due to the volatile nature of the petroleum industry.

(i) Examples of property in this class include:

- (A) oil and gas exploration equipment;
- (B) distillation equipment;
- (C) wellhead assemblies;
- (D) holding and storage facilities;
- (E) drill rigs;
- (F) reinjection equipment;
- (G) metering devices;
- (H) cracking equipment;
- (I) well-site generators, transformers, and power lines;
- (J) equipment sheds;
- (K) pumps;
- (L) radio telemetry units; and
- (M) support and control equipment.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 20

Year of Acquisition	Percent Good of Acquisition Cost
[11]12	92%
[10]11	83%
[09]10	81%
[08]09	[75%]78%
[07]08	[71%]73%
[06]07	[67%]69%
[05]06	[62%]64%
[04]05	[58%]60%
[03]04	[50%]52%
[02]03	[40%]42%
[01]02	[31%]32%
[00]01	[20%]22%
[99]00 and prior	11%

~~(tt)~~(t) Class 21 - Commercial Trailers.

(i) Examples of property in this class include:

- (A) dry freight van trailers;
- (B) refrigerated van trailers;
- (C) flat bed trailers;
- (D) dump trailers;
- (E) livestock trailers; and
- (F) tank trailers.

(ii) Taxable value is calculated by applying the percent good factor against the cost new of the property. For state assessed vehicles, cost new shall include the value of attached equipment.

(iii) The ~~[2012]~~2013 percent good applies to ~~[2012]~~2013 models purchased in ~~[2011]~~2012.

(iv) Commercial trailers have a residual taxable value of \$1,000.

TABLE 21

Model Year	Percent Good of Cost New
[12]13	95%
[11]12	[83%]87%
[10]11	[79%]82%
[09]10	[74%]77%
[08]09	[70%]72%
[07]08	[65%]67%
[06]07	[60%]62%
[05]06	[56%]57%
[04]05	[51%]52%
[03]04	[46%]47%
[02]03	42%
[01]02	37%
[00]01	[33%]32%
[99]00	[28%]27%
[98]99	[23%]22%
[97]98	[19%]17%
[96]97 and prior	[14%]12%

~~(v)~~(u) Class 21a - Other Trailers (Non-Commercial).

(i) Because Section 59-2-405.2 subjects this class of trailers to an age-based uniform fee, a percent good schedule is not necessary.

~~(w)~~(v) Class 22 - Passenger Cars, Light Trucks/Utility Vehicles, and Vans.

(i) Class 22 vehicles fall within four subcategories: domestic passenger cars, foreign passenger cars, light trucks, including utility vehicles, and vans.

(ii) Because Section 59-2-405.1 subjects Class 22 property to an age-based uniform fee, a percent good schedule is not necessary.

~~(x)~~(w) Class 22a - Small Motor Vehicles.

(i) Because Section 59-2-405.2 subjects small motor vehicles to an age-based uniform fee, a percent good schedule is not necessary.

~~(y)~~(x) Class 23 - Aircraft Required to be Registered With the State.

(i) Because Section 59-2-404 subjects aircraft required to be registered with the state to a statewide uniform fee, a percent good schedule is not necessary.

~~(z)~~(y) Class 24 - Leasehold Improvements on Exempt Real Property.

(i) The Class 24 schedule is to be used only for those leasehold improvements where the underlying real property is owned by an entity exempt from property tax under Section 59-2-1101. See Tax Commission rule R884-24P-32. Leasehold improvements include:

- (A) walls and partitions;
- (B) plumbing and roughed-in fixtures;
- (C) floor coverings other than carpet;
- (D) store fronts;
- (E) decoration;
- (F) wiring;
- (G) suspended or acoustical ceilings;
- (H) heating and cooling systems; and
- (I) iron or millwork trim.

(ii) Taxable value is calculated by applying the percent good factor against the cost of acquisition, including installation.

(iii) The Class 3 schedule is used to value short life leasehold improvements.

TABLE 24

Year of Installation	Percent of Installation Cost
[11]12	94%
[10]11	88%
[09]10	82%
[08]09	77%
[07]08	71%
[06]07	65%
[05]06	59%
[04]05	54%
[03]04	48%
[02]03	42%
[01]02	36%
[00]01 and prior	30%

~~(aa)~~(z) Class 25 - Aircraft Parts Manufacturing Tools and Dies. Property in this class is generally subject to rapid physical, functional, and economic obsolescence due to rapid technological and economic shifts in the airline parts manufacturing industry. Heavy wear and tear is also a factor in valuing this class of property.

(i) Examples of property in this class include:

- (A) aircraft parts manufacturing jigs and dies;
- (B) aircraft parts manufacturing molds;
- (C) aircraft parts manufacturing patterns;
- (D) aircraft parts manufacturing taps and gauges; and

- (E) aircraft parts manufacturing test equipment~~[-and~~
- ~~(F) aircraft parts manufacturing fixtures].~~
- (ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 25

Year of Acquisition	Percent Good of Acquisition Cost
<del>[11]</del> 12	84%
<del>[10]</del> 11	<del>[69%]</del> 71%
<del>[09]</del> 10	<del>[51%]</del> 54%
<del>[08]</del> 09	36%
<del>[07]</del> 08	19%
<del>[06]</del> 07 and prior	4%

~~(bb)~~(aa) Class 26 - Personal Watercraft.

(i) Because Section 59-2-405.2 subjects personal watercraft to an age-based uniform fee, a percent good schedule is not necessary.

~~(ee)~~(bb) Class 27 - Electrical Power Generating Equipment and Fixtures

(i) Examples of property in this class include:

- (A) electrical power generators; and
- (B) control equipment.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 27

Year of Acquisition	Percent Good of Acquisition Cost
<del>[11]</del> 12	97%
<del>[10]</del> 11	95%
<del>[09]</del> 10	92%
<del>[08]</del> 09	90%
<del>[07]</del> 08	87%
<del>[06]</del> 07	84%
<del>[05]</del> 06	82%
<del>[04]</del> 05	79%
<del>[03]</del> 04	77%
<del>[02]</del> 03	74%
<del>[01]</del> 02	71%
<del>[00]</del> 01	69%
<del>[99]</del> 00	66%
<del>[98]</del> 99	64%
<del>[97]</del> 98	61%
<del>[96]</del> 97	58%
<del>[95]</del> 96	56%
<del>[94]</del> 95	53%
<del>[93]</del> 94	51%
<del>[92]</del> 93	48%
<del>[91]</del> 92	45%
<del>[90]</del> 91	43%
<del>[89]</del> 90	40%
<del>[88]</del> 89	38%
<del>[87]</del> 88	35%
<del>[86]</del> 87	32%
<del>[85]</del> 86	30%
<del>[84]</del> 85	27%
<del>[83]</del> 84	25%
<del>[82]</del> 83	22%
<del>[81]</del> 82	19%
<del>[80]</del> 81	17%
<del>[79]</del> 80	14%
<del>[78]</del> 79	12%
<del>[77]</del> 78 and prior	9%

(cc) Class 28 - Noncapitalized Personal Property. Property shall be classified as noncapitalized personal property if the following conditions are met:

(i) the property is an item of taxable tangible personal property with an acquisition cost of \$1,000 or less; and

(ii) the property is claimed as a deductible expense under Section 162 or Section 179, Internal Revenue Code, in the year of acquisition.

TABLE 28

Year of Acquisition	Percent Good of Acquisition Cost
12	75%
11	50%
10	25%
09 and prior	0%

The provisions of this rule shall be implemented and become binding on taxpayers beginning January 1, ~~[2012]~~ 2013.

**KEY: taxation, personal property, property tax, appraisals**  
**Date of Enactment or Last Substantive Amendment: [July 26,] 2012**

**Notice of Continuation: January 3, 2012**  
**Authorizing, and Implemented or Interpreted Law: Art. XIII, Sec 2; 9-2-201; 11-13-302; 41-1a-202; 41-1a-301; 59-1-210; 59-2-102; 59-2-103; 59-2-103.5; 59-2-104; 59-2-201; 59-2-210; 59-2-211; 59-2-301; 59-2-301.3; 59-2-302; 59-2-303; 59-2-303.1; 59-2-305; 59-2-306; 59-2-401; 59-2-402; 59-2-404; 59-2-405; 59-2-405.1; 59-2-406; 59-2-508; 59-2-514; 59-2-515; 59-2-701; 59-2-702; 59-2-703; 59-2-704; 59-2-704.5; 59-2-705; 59-2-801; 59-2-918 through 59-2-924; 59-2-1002; 59-2-1004; 59-2-1005; 59-2-1006; 59-2-1101; 59-2-1102; 59-2-1104; 59-2-1106; 59-2-1107 through 59-2-1109; 59-2-1113; 59-2-1115; 59-2-1202; 59-2-1202(5); 59-2-1302; 59-2-1303; 59-2-1308.5; 59-2-1317; 59-2-1328; 59-2-1330; 59-2-1347; 59-2-1351; 59-2-1365**

Technology Services, Administration  
**R895-3**  
 Computer Software Licensing,  
 Copyright, Control, Retention, and  
 Transfer

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 36699  
 FILED: 08/29/2012

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 63F-1-206 grants the Chief Information Officer the authority to grant rules relating to technology, including the authority establish standards for when an agency must obtain approval before obtaining items listed in Subsection 63F-1-205(1); and Subsection 63F-1-206(1)(a)(iv)

provides for the acquisition, licensing, and sale of computer software. The standards for computer software licensing, copyright, control, retention, and transfer have changed since the establishment of Rule R895-3. Thus, the CIO has recommended changes to Rule R895-3 to be more in line with the current standards.

**SUMMARY OF THE RULE OR CHANGE:** The purpose of this rule is to establish the State of Utah's position and its intent to: 1) comply with computer software licensing agreements and applicable federal laws, including copyright and patent laws; 2) define the methods by which the State of Utah (State) will control and protect computer software; and 3) establish the State's right, title and interest in state-developed computer software, including the sale and transfer of such software under certain conditions.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 63F-1-206 and Section 63G-3-201

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The state budget will not be affected by this change as this amendment moves the software coordinator responsibility to the Department of Technology Services from the state agencies. There is no additional cost or savings included in this change.

◆ **LOCAL GOVERNMENTS:** Local government will not be affected by this change as this amendment moves the software coordinator responsibility to the Department of Technology Services from the state agencies. There is no additional cost or savings included in this change.

◆ **SMALL BUSINESSES:** Small businesses will not be affected by this change as this amendment moves the software coordinator responsibility to the Department of Technology Services from the state agencies. There is no additional cost or savings included in this change.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Persons other than small businesses, businesses, or local government entities will not be affected by this change as this amendment moves the software coordinator responsibility to the Department of Technology Services from the state agencies. There is no additional cost or savings included in this change.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There will be no compliance costs for affected persons as this amendment moves the software coordinator responsibility to the Department of Technology Services from the state agencies. There is no additional cost or savings included in this change.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There will be no fiscal impact on businesses due to the change in this rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
TECHNOLOGY SERVICES  
ADMINISTRATION  
ROOM 6000 STATE OFFICE BUILDING  
450 N STATE ST  
SALT LAKE CITY, UT 84114  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Stephanie Weiss by phone at 801-538-3284, by FAX at 801-538-3622, or by Internet E-mail at stweiss@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

**AUTHORIZED BY:** Mark VanOrden, Acting Executive Director

**R895. Technology Services, Administration.**

**R895-3. Computer Software Licensing, Copyright, Control, Retention, and Transfer.**

**R895-3-5. Compliance and Responsibilities: Software Licensing.**

(1) Each state agency and its employees shall comply with computer software licensing agreements, state laws, federal contracts, federal funding agreements, and federal laws, including copyright and patent laws.

(2) All management personnel will discourage software piracy and take appropriate personnel action up to and including dismissal, against any employee who has been found to be in violation of software license agreements. Personnel action shall be in full accordance with the Department of Human Resource Management Rule R477-11-1 et seq., Utah Administrative Code.

(3) Each state agency shall:

(a) establish a software ~~controller~~ coordinating function that ~~has the~~ will work with the DTS software coordinator to provide responsibility and authority to manage software licenses, software licensing agreements, software inventory ~~and the oversight of and reporting on spot audits~~;

~~[(b) coordinate training to employees who are assigned to, as part of their job responsibilities, the software controller function;~~

~~(c) provide training to other employees appropriate to their responsibilities including those who install, transfer and dispose of software;~~

~~(d) provide to employees notices of the state agency's software use policy at appropriate locations. Appropriate locations may include computing facilities, offices, lunchrooms or websites.~~

~~(e) keep and maintain an inventory of all state-owned computer software and software licensing agreements by:~~

- ~~(i) establishing accurate software inventories and maintaining them;~~
- ~~(ii) establishing a baseline inventory of software already purchased;~~
- ~~(iii) maintaining this inventory through annual inventory reviews that reconcile purchases against inventory;~~
- ~~(iv) acquiring and using auditing tools to assist in establishing the inventory baseline and performing the ongoing reconciliation;~~
- ~~(f) dispose of software in accordance with the software license agreement.~~

~~(g) remove from the storage media before disposing of a computer, all private, protected or controlled data as defined by the Government Records Access and Management Act, UCA 63G-2-101 et seq.~~

~~(h) Understand the conditions of computer software licensing agreements before purchasing computer software, and inform State employees, whose responsibility it is to monitor the State's compliance with computer software licensing agreements, of these conditions.~~

~~(i)(b) Inform employees that are engaged in developing or controlling the distribution of software for the State, that any state-developed software is an asset owned by the State and controlled according to the terms of this rule.~~

(4) A state software controller function is established within the Department of Technology Services with the following responsibilities:

- (a) coordinate all centralized software purchases;
- (b) manage software licenses, software licensing agreements and software inventory for centralized software purchases;
- (c) coordinate and provide information to employees who are responsible for the software controller function within each state agency;

~~(d) coordinate statewide audits or spot audits as needed. In determining when to conduct a spot audit personnel performing this function will take into consideration factors including but not limited to:~~

- ~~(i) an unusual organizational activity such as high employee turnover;~~
- ~~(ii) large development projects or recent large scale changes in computer software.]~~
- ~~(d) provide to employees notices of the state agency's software use policy at appropriate locations. Appropriate locations may include computing facilities, offices, lunchrooms or websites.~~

~~(e) keep and maintain an inventory of all state-owned computer software and software licensing agreements tracked by agency by:~~

- ~~(i) establishing accurate software inventories and maintaining them;~~
- ~~(ii) establishing a baseline inventory of software already purchased;~~
- ~~(iii) maintaining this inventory through annual inventory reviews that reconcile purchases against inventory;~~
- ~~(iv) acquiring and using auditing tools to assist in establishing the inventory baseline and performing the ongoing reconciliation;~~

~~(f) coordinate with DTS technical personnel to:~~

~~(i) dispose of software in accordance with the software license agreement;~~

~~(ii) remove from the storage media before disposing of a computer, all private, protected or controlled data as defined by the Government Records Access and Management Act, UCA 63G-2-101 et seq.~~

~~(g) Understand the conditions of computer software licensing agreements before purchasing computer software, and inform State employees, whose responsibility it is to monitor the State's compliance with computer software licensing agreements, of these conditions.~~

~~(h) coordinate statewide audits or spot audits as needed.~~

**R895-3-6. Compliance and Responsibilities: Retention and Transfer of State-Developed Computer Software.**

(1) Unless otherwise prohibited by federal law, regulation, contract or funding agreement, ~~[a state agency]~~the State of Utah may retain the right, title and interest in any state-developed computer software. To do so, the agency shall:

(a) clearly define in all contracts that it controls the ownership rights for computer software development and related documentation; and

(b) mark all computer software and related documentation developed by employees of the State with the copyright symbol and year, and label "Utah State Government" on all media on which the computer software or documentation is stored and at the beginning of the computer software execution.

(2) ~~[A state agency]~~The State of Utah may sell or otherwise transfer the right, title and interest in any state-developed computer software. In order to carry this out, ~~[the]~~state agency must do the following:

(a) Submit a request to the state software controller and obtain approval from the Chief Information Officer prior to the sale or transfer of state-developed computer software. The agency's request shall include a copy of the transfer agreement and any other contractual information. A summary report of these requests will be provided to the Information Technology Policy and Strategy Committee. An example of a model transfer or sale of state-developed software agreement may be obtained from the Chief Information Officer.

(b) Clearly specify within the transfer documents whether the costs of development will be recovered from the receiver.

(c) Clearly specify within the transfer documents whether the costs associated with copying and sending the state-developed computer software will be recovered from the receiver.

(d) Clearly specify within the transfer documents that the receiver is responsible for acquiring any commercial computer software upon which the state-developed computer software may be dependent.

(e) Clearly specify within the transfer documents that no additional services, such as installation, training, or maintenance, will be provided unless the parties have agreed otherwise.

(f) Clearly specify within the transfer documents that the state-developed computer software is being transferred in "as is" condition, and that the State will not be held liable for any incidental or consequential damages under any circumstances.

(g) Retain a record of the transfer, and process it in accordance with the Government Records Access and Management Act, Section 63G-2-101 et seq., Utah Code Annotated.

(3) In accordance with the requirements of (2), ~~[a]the~~ state ~~[agency]~~ may initiate an agreement to transfer state-developed computer software when reasons exist to share such software with another state or entity.

(4) The Chief Information Officer may measure compliance of a state agency and its employees with this rule by conducting periodic audits in accordance with Section 63F-1-206, Utah Code Annotated. In performing audits, the Chief Information Officer may utilize external auditors and an agency's internal auditor(s) when such resources are available and the use of such resources is appropriate.

**KEY: computer software, licensing, copyright, transfer**

**Date of Enactment or Last Substantive Amendment:**  
~~[December 17, 2002]~~2012

**Notice of Continuation: August 31, 2012**

**Authorizing, and Implemented or Interpreted Law: 63F-1-206; 63G-3-201; 34-39-1 et seq.; 63G-2-101 et seq.**

## Transportation, Operations, Traffic and Safety **R920-1** Manual of Uniform Traffic Control Devices

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 36704

FILED: 08/30/2012

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of the change is to incorporate the current Utah Manual on Uniform Traffic Control Devices (Utah MUTCD) which represents the national standard with certain modifications made by the Utah Department of Transportation. The Federal Highway Administration has determined that the Utah MUTCD is in substantial conformance with the National MUTCD.

**SUMMARY OF THE RULE OR CHANGE:** Significant changes between the last version of the MUTCD incorporated by this rule and the Utah MUTCD include a restructure that changed the language from "shall," "should" and "may" to "standards," "guidance," "option" and "support." Standards are required, mandatory or specifically prohibited practices. Guidance is a recommended practice. An option is a permissive practice and support is an informational statement. A new part was added for Low Volume Roads and for Highway-Light Rail Transit Grade Crossings. The section on Islands was deleted and clarifying definitions were added. Crosswalk lines were removed from crossing signs, a new yield line pavement marking was added along with in-road lighting. Additionally, the manual was made applicable to private property open to public travel. It now requires

individual arrows for guide signs, has revised option lane guide sign requirements, has a new section on preferential lanes (express lanes), and requires high-visibility apparel for all workers within the public right-of-way. School zone warning signs must use fluorescent yellow-green color only, and a speed limit sign cannot end a school speed limit zone. The Legibility Index was changed to 30 feet per inch of legend height, some sign sizes were increased, one-way sign requirements were modified, along with the requirements for warning signs for changes in horizontal alignment. Signal changes include requiring 12 inch indications for all new installations, requiring a signal head for each lane when the speed is greater than 45 miles per hour, requiring single back plates for certain conditions, and allowing the use of flashing yellow arrows for left turns, and allowing the use of hybrid beacons for pedestrian crossings. There have been other stylistic and grammatical changes like adding paragraph numbers and italicizing guidance statements. The majority of the Utah MUTCD was taken directly from the National Manual. Differences include added definitions, modified optional lane exit guide signing requirements, added sections on logo signing, byway signing, and open range signing, and a modified walking speed for pedestrians in the Signal section. The Utah MUTCD also removed the National Manual Part 7 (School Zones) and replaced it with the current Utah Traffic Controls for School Zones Supplement that has been required in Utah since 1992. Additional modifications were added to reflect UDOT policy and practices for highways under the department's jurisdiction.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 41-6a-1307 and Section 41-6a-301 and Section 41-6a-303

### MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates Utah Manual on Uniform Traffic Control Devices For Streets and Highways, published by Utah Department of Transportation, 12/01/2011

### ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** Adoption of the Utah MUTCD, with modification from the national requirements for Optional Lane Guide signing, can potentially save \$43,000 per overhead guide sign structure installation. Other requirements of the Utah MUTCD reflect current policy or practice and would not add costs to current operations.
- ◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or saving to local government because the Utah MUTCD does not place additional burdens on local government. They are already required to follow the requirements of the Utah Traffic Controls for School Zones Supplement, which is included in the Utah MUTCD to provide a location for easy reference.
- ◆ **SMALL BUSINESSES:** There is no anticipated cost or saving to small businesses because the Utah MUTCD does not place additional burdens or requirements on small businesses beyond those required by the National MUTCD.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or saving to persons other than

small businesses, businesses or local government because the Utah MUTCD does not place additional burdens or requirements beyond those required by the National MUTCD.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no anticipated cost or saving to affected persons because the Utah MUTCD does not place additional burdens or requirements on affected persons beyond those required by the National MUTCD.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no anticipated fiscal impact on businesses because the Utah MUTCD does not place additional burdens or requirements on businesses beyond those required by the National MUTCD.

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

TRANSPORTATION  
OPERATIONS, TRAFFIC AND SAFETY  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5998  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
♦ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cwnewman@utah.gov](mailto:cwnewman@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

AUTHORIZED BY: John Njord, Executive Director

**R920. Transportation, Operations, Traffic and Safety.**  
**R920-1. Utah Manual of Uniform Traffic Control Devices.**  
**R920-1-1. Adoption by Reference Purpose and Authority.**

The purpose of this rule is to adopt standards and establish specifications for a uniform system of traffic-control devices used on all highways open to public travel, to establish criteria and specifications for the establishment, location, and operation of school crosswalks, school zones, and reduced speed school zones, and to establish specifications for uniform signage or markings to clearly identify school bus parking zones. This rule is authorized by Sections 41-6a-301, 41-6a-303 and 41-6a-1307.

**R920-1-2. Incorporation.**

[Adopted]Incorporated by reference is the Utah Manual of Uniform Traffic Control Devices, 2009 Edition with revisions through December 2011 (Utah MUTCD). This manual was [approved]determined to be in substantial conformance with the 2009 MUTCD by the Federal Highway Administrator which, in accordance with Title 23, U.S. Code, Section 655, [a]is the [National]standard for all highways open to public travel in

accordance with Title 23, U.S. Code, Sections 109(d) and 402(a) [~~and 23-CFT-1204.4~~]. Included in Part 7 of the Utah MUTCD is the Utah Traffic Controls for School Zones establishing the criteria and specifications authorized by Sections 41-6a-303 and 41-6a-1307.

**R920-1-3. Authority of Executive Director or Designee.**

All authority shall rest with the Utah Department of Transportation Executive Director or his designee to develop or modify the Utah MUTCD, including the Utah Traffic Controls for School Zones, as the standard for all highways open to public travel in Utah.

**KEY: traffic control, pedestrians, school zones, traffic signs**  
**Date of Enactment or Last Substantive Amendment:** ~~1987~~2012  
**Notice of Continuation:** August 1, 2012  
**Authorizing, and Implemented or Interpreted Law:** 41-6a-301; 41-6a-303; 41-6a-1307

Transportation, Operations, Traffic and  
Safety  
**R920-2**  
Traffic Control Systems for Railroad-  
Highway Grade Crossings

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 36705

FILED: 08/30/2012

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to repeal the Traffic Control Systems for Railroad-Highway Grade Crossings because these regulations are covered in Rules R930-5 and R920-51, and in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1. (DAR NOTE: The proposed amendment to Rule R920-1 is under DAR No. 36704 in this issue, September 15, 2012, of the Bulletin.)

**SUMMARY OF THE RULE OR CHANGE:** This rule is being repealed because regulations for traffic control systems for railroad-highway grade crossings are covered in Rules R930-5 and R920-51, and in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1. This rule is repealed in its entirety.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 72-6-115

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There is no anticipated cost or saving to the state budget because the change only repeals

this rule because the regulations are covered in Rules R930-5 and R920-51, and in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1.

♦ LOCAL GOVERNMENTS: There is no anticipated cost or saving to local government because the change only repeals this rule because the regulations are covered in Rules R930-5 and R920-51, and in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1.

♦ SMALL BUSINESSES: There is no anticipated cost or saving to small businesses because the change only repeals this rule because the regulations are covered in Rules R930-5 and R920-51, and in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or saving to persons other than small businesses, businesses, or local government entities because the change only repeals this rule because the regulations are covered in Rules R930-5 and R920-51, and in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no anticipated compliance cost for affected persons because the change only repeals this rule because the regulations are covered in Rules R930-5 and R920-51, and in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on businesses because the change only repeals this rule because the regulations are covered in Rules R930-5 and R920-51, and in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1.

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

TRANSPORTATION  
OPERATIONS, TRAFFIC AND SAFETY  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5998  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cnewman@utah.gov](mailto:cnewman@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

AUTHORIZED BY: John Njord, Executive Director

**R920. Transportation, Operations, Traffic and Safety.**

~~[R920-2. Traffic Control Systems for Railroad-Highway Grade Crossings.~~

~~R920-2-1. Traffic Control Systems for Railroad-Highway Grade Crossings; U.S. Department of Transportation, Federal Highway Administration, "Traffic Control Devices Handbook", Part VIII.~~

~~\_\_\_\_\_ Traffic Control Systems for Railroad-Highway Grade Crossings is Adopted by reference for all highways in the State under jurisdiction of the Utah Department of Transportation and/or as it applies to Railroad Companies~~

~~**R920-2-2. Functions.**~~

~~\_\_\_\_\_ A. Traffic control systems for railroad-highway grade crossings include all signs, signals, markings, and illumination devices and their supports along highways approaching and at railroad crossings at grade. The function of these systems is to permit safe and efficient operation of rail and highway traffic over crossings. Traffic control devices shall be consistent with the design and application of the standards contained herein. For the purpose of installation, operation, and maintenance of devices constituting traffic control systems at railroad-highway grade crossings, it is recognized that any crossing of a public road and a railroad(s) is situated on right-of-way available for the use of both highway traffic and railroad traffic on their respective roadways and tracks.~~

~~\_\_\_\_\_ B. With due regard for safety and for the integrity of operations by highway and railroad users, the highway agency and the railroad company are entitled to jointly occupy the right-of-way in the conduct of their assigned duties. This requires joint responsibility in the traffic control function between the public agency and the railroad. The determination of need and selection of devices at a grade crossing is made by the public agency with jurisdictional authority. Subject to such determination and selection, the design, installation and operation shall be in accordance with the national standards contained herein.~~

~~\_\_\_\_\_ 1. Use of Standard Devices. The grade crossing traffic control devices, systems, and practices described herein are intended for use both in new installations and at locations where general replacement of present apparatus is made, consistent with Federal and State laws and practices utilize the five basic considerations: design, placement, operation, maintenance, and uniformity employed generally for traffic control devices.~~

~~\_\_\_\_\_ 2. Uniform Provisions~~

~~\_\_\_\_\_ C. Specifications, requisites, instruction, and plans for materials and methods referred to herein are those contained in the Traffic Control Devices Handbook. This handbook can be purchased from the U.S. Government Printing Office or it can be viewed at the Utah Department of Transportation Headquarters Office.~~

**KEY: railroads, traffic control**

**Date of Enactment or Last Substantive Amendment: 1987**

**Notice of Continuation: October 23, 2007**

**Authorizing, and Implemented or Interpreted Law: 72-6-115]**



Transportation, Operations, Traffic and Safety  
**R920-3**  
 Manual of Uniform Traffic Control Devices, Part VI

**NOTICE OF PROPOSED RULE**

(Repeal)  
 DAR FILE NO.: 36706  
 FILED: 08/30/2012

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to repeal this rule because these regulations are included in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1. (DAR NOTE: The proposed amendment to Rule R920-1 is under DAR No. 36704 in this issue, September 15, 2012, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This rule is being repealed because these regulations are included in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1. This rule is repealed in its entirety.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-6-115

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There is no anticipated cost or saving to the state budget from repeal of this rule because these regulations are included in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1.
- ◆ LOCAL GOVERNMENTS: There is no anticipated cost or saving to local government from repeal of this rule because these regulations are included in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1.
- ◆ SMALL BUSINESSES: There is no anticipated cost or saving to small businesses from repeal of this rule because these regulations are included in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or saving to persons other than small businesses, businesses, or local government entities from repeal of this rule because these regulations are included in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no anticipated cost for affected persons from repeal of this rule because these regulations are included in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impacts on businesses from repeal of this rule because these regulations are included in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 TRANSPORTATION  
 OPERATIONS, TRAFFIC AND SAFETY  
 CALVIN L RAMPTON COMPLEX  
 4501 S 2700 W  
 SALT LAKE CITY, UT 84119-5998  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cwnewman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

AUTHORIZED BY: John Njord, Executive Director

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**R920. Transportation, Operations, Traffic and Safety.**  
~~[R920-3. Manual of Uniform Traffic Control Devices, Part VI.~~  
**R920-3-1. Adoption of Federal Manual.**  
~~Manual of Uniform Traffic Control Devices, Part VI, Standards and Guides for Traffic Controls for Street and Highway Construction, Maintenance, Utility, and Incident Management Operations, 1988 Edition, Revision 3, September 3, 1993 of the Federal Highway Administration is adopted by reference.~~

~~KEY: work zone traffic control~~  
~~Date of Enactment or Last Substantive Amendment: 1987~~  
~~Notice of Continuation: August 10, 2007~~  
~~Authorizing, and Implemented or Interpreted Law: 72-6-115]~~

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Transportation, Operations, Traffic and Safety  
**R920-5**  
 Manual and Specifications on School Crossing Zones. Supplemental to Part VII of the Manual on Uniform Traffic Control Devices

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 36707

FILED: 08/30/2012

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to repeal this rule because these regulations are included in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1. (DAR NOTE: The proposed amendment to Rule R920-1 is under DAR No. 36704 in this issue, September 15, 2012, of the Bulletin.)

**SUMMARY OF THE RULE OR CHANGE:** This rule is being repealed because these regulations are included in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1. This rule is repealed in its entirety.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 41-6-20(2)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There is no anticipated cost or saving to the state budget from repeal of this rule because these regulations are included in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1.

◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or saving to local government from repeal of this rule because these regulations are included in the Utah Manual of Uniform Traffic Control Devices incorporated in Rule R920-1.

◆ **SMALL BUSINESSES:** There is no anticipated cost or saving to small businesses from repeal of this rule because these regulations are included in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or saving to persons other than small businesses, businesses, or local government entities from repeal of this rule because these regulations are included in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no anticipated compliance cost for affected persons from repeal of this rule because these regulations are included in the Utah Manual on Uniform Traffic Control Devices incorporated in R920-1.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no anticipated fiscal impact on businesses from repeal of this rule because these regulations are included in the Utah Manual on Uniform Traffic Control Devices incorporated in Rule R920-1.

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

TRANSPORTATION  
OPERATIONS, TRAFFIC AND SAFETY  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5998  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cwnewman@utah.gov](mailto:cwnewman@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

AUTHORIZED BY: John Njord, Executive Director

**R920. Transportation, Operations, Traffic and Safety.**

~~[R920-5. Manual and Specifications on School Crossing Zones. Supplemental to Part VII of the Manual on Uniform Traffic Control Devices.~~

**~~R920-5-1. Incorporation by Reference.~~**

~~————— In order to implement the federal government's adoption of the Millenium Edition of the Manual on Uniform Traffic Control Devices, the Department adopts by reference the Utah Traffic Controls for School Zones, Part 7 Supplement to the Manual on Uniform Traffic Control Devices, Millenium Edition, (2005 Edition). Copies of this document are available at the Department, Attn: Traffic and Safety, 4501 South 2700 West, Salt Lake City, Utah 84114.~~

**KEY: pedestrians, traffic control, traffic safety, traffic signs**

**Date of Enactment or Last Substantive Amendment: July 18, 2005**

**Notice of Continuation: August 10, 2007**

**Authorizing, and Implemented or Interpreted Law: 41-6-20(2)]**

**End of the Notices of Proposed Rules Section**

## NOTICES OF CHANGES IN PROPOSED RULES

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After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive public comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period, and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends October 15, 2012.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [~~example~~]). A row of dots in the text between paragraphs (. . . . .) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Division of Administrative Rules will include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

From the end of the 30-day waiting period through January 13, 2013, an agency may notify the Division of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses and the agency must start the process over.

**CHANGES IN PROPOSED RULES** are governed by Section 63G-3-303; Rule R15-2; and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

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**The Changes in Proposed Rules Begin on the Following Page**

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-510
Intermediate Care Facility for Individuals with Mental Retardation Transition Program

NOTICE OF CHANGE IN PROPOSED RULE
DAR FILE NO.: 36379
FILED: 08/31/2012

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Based on public comments received by the Department, the purpose of this change is to clarify the notification and application process for the Intermediate Care Facility for Persons with Intellectual Disabilities (ICF/ID) Transition Program.

SUMMARY OF THE RULE OR CHANGE: This amendment clarifies the notification and application process for the ICF/ID Transition Program. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the July 1, 2012, issue of the Utah State Bulletin, on page 70. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

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

ANTICIPATED COST OR SAVINGS TO:

- THE STATE BUDGET: The Department does not anticipate any impact to the state budget because this change only clarifies the notification and application process for the ICF/ID Transition Program.
LOCAL GOVERNMENTS: There is no impact to local governments because they neither fund nor provide Home and Community-Based Services (HCBS) to Medicaid recipients.
SMALL BUSINESSES: The Department does not anticipate any impact to small businesses because this change only clarifies the notification and application process for the ICF/ID Transition Program.
PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The Department does not anticipate any impact to HCBS providers and to Medicaid recipients because this change only clarifies the notification and application process for the ICF/ID Transition Program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Department does not anticipate any compliance costs to a single HCBS provider or to a Medicaid recipient because this change only clarifies the notification and application process for the ICF/ID Transition Program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Greater awareness of the option for residents of ICF/ID facilities to move into community placements is good public policy and this rule supports that policy. Notice and meeting requirements are placed on the state rather than the facility to minimize business impact.

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 10/15/2012

THIS RULE MAY BECOME EFFECTIVE ON: 10/22/2012

AUTHORIZED BY: David Patton, PhD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-510. Intermediate Care Facility for Persons with Intellectual Disabilities Transition Program.

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R414-510-4. Program Access Requirements.

- (1) Each fiscal year, the Department shall determine whether there are sufficient funds available to open slots in the Transition Program. The Department shall stipulate to the amount of funds that it dedicates to the program if funds are available.
(2) Based on funds dedicated to the program, the Department shall estimate the number of slots available. The Department estimates the number of slots available by dividing the total amount of funds dedicated to the program in a fiscal year by the state portion of the average daily ICF/ID rate.
(3) During a fiscal year when the Transition Program is open, the Department shall announce an open application period for

accepting applications. The Department will publicize the availability of the program in the following manner:

(a) Provide a letter to the administrator of each privately-owned ICF/ID and to the parent(s) of each ICF/ID resident under the age of 18 or where one has been appointed, the guardian of each resident over the age of 18. The letter will:

(i) Be written on a developmentally appropriate level;

(ii) Describe the purpose and operation of the program, including availability of funding;

(iii) Describe how to apply;

(iv) Contain contact information for additional questions.

(b) Post information about program availability on the Utah Medicaid website.

(c) Hold at least one open and public meeting information session introducing the program. The meeting will be held pursuant to public notice requirements and a notice of the meeting will also be publicized in the same manner as the letter in Subsection R414-510-4(3)(a) above. Meeting information will include:

(i) A description of the purpose(s) of the program;

(ii) An explanation of the operation of the program including availability of funding;

(iii) A question and answer period; and

(iv) An opportunity for residents and guardians to apply for the program.

(4) After the open application period, the Department places the name of each ICF/ID Transition Program applicant on both a longevity list and a random list. On the longevity list, the Department ranks each ICF/ID Transition Program applicant according to length of consecutive stay in an ICF/ID in Utah. On the random list, the Department randomly ranks each ICF/ID Transition Program applicant based on a computerized random selection.

(5) The Department takes evenly first from the longevity list and then from the random list for placement in CSW until the amount of funds committed to the program is disbursed for the care of the individuals. If the Legislature funds an odd number of program slots, the Department places one additional individual from the longevity list.

(6) If an ICF/ID Transition Program applicant is selected for transition and has a spouse who also resides in a Utah ICF/ID and who meets the eligibility criteria in Section R414-510-3, the Department shall provide an additional slot for the spouse to participate in the transition program without affecting the number of available slots from the longevity and random lists.

(7) The Department shall use the lists to admit new applicants into CSW from the Transition Program until the amount of funds committed to the program is disbursed for the care of the individuals.

(8) The Department shall keep these lists open for the purpose of filling slots vacated through program attrition. If the Department admits a CSW client through the Transition Program, and the client leaves the program for any reason, the Department shall contact and enroll the next person on the list.

(9) The Department shall create new lists in accordance with Subsection R414-510-4(4) when funds are available to open new Transition Program slots.

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**KEY: Medicaid**  
**Date of Enactment or Last Substantive Amendment: 2012**  
**Notice of Continuation: January 9, 2012**  
**Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3**

**End of the Notices of Changes in Proposed Rules Section**



**NOTICES OF  
120-DAY (EMERGENCY) RULES**

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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.

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**Insurance, Administration  
R590-266  
Utah Essential Health Benefits  
Package**

**NOTICE OF 120-DAY (EMERGENCY) RULE**  
DAR FILE NO.: 36703  
FILED: 08/30/2012

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to designate an essential health benefits package in Utah as provided by Section 1302 of the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care Education Reconciliation Act of 2010 (ACA).

**SUMMARY OF THE RULE OR CHANGE:** As outlined in Section 31A-30-116, Utah has chosen to designate its own essential health benefits rather than accept a federal determination. On 08/16/2012, the Chairmen of the Legislature's Health System Reform Task Force notified the Insurance Commissioner that the Task Force had voted to recommend the Public Employees Health Program's (PEHP) Utah Basic Plus Plan as Utah's Essential Health Benefit Package for the purposes of the ACA. (DAR NOTE: A corresponding proposed new Rule R590-266 is under DAR No. 36708 in this issue, September 15, 2012, of the Bulletin.)

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 31A-30-116(3)(b)

**EMERGENCY RULE REASON AND JUSTIFICATION:** REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

**JUSTIFICATION:** In the 2012 General Session, the Legislature passed H.B. 144, Health System Reform Amendments, which requires the department to adopt via emergency rule, Subsection 31A-30-116(3)(b). The insurers need this information immediately so they can start development of the products and systems to manage the new requirements.

**MATERIALS INCORPORATED BY REFERENCES:**

- ◆ Adds PEHP Utah Basic Plus 2012 Plan, published by Public Employees Health Plan, 2012

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The requirements of this rule will increase rate and form filings to the department from 65 health insurers offering comprehensive health insurance products. The increase in filings will not increase the department or state's revenues, just increase the workload of the department and since the department does not have the fiscal appropriation to hire anyone for the additional workload it will have to be assimilated among current employees.

◆ **LOCAL GOVERNMENTS:** This rule will have no impact on local governments since it deals solely with the relationship between the department and their licensees.

◆ **SMALL BUSINESSES:** This rule will change the type of health insurance products agencies will offer to their clients. It may affect the cost of the health plan chosen by the small employers. If current plan does not meet the minimum requirements the premiums will more than likely increase to account for the increase in benefits.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule will impact 65 health insurers that sell insurance in Utah. Health insurers may need to develop new products, train their workforce and update their computer program. It may affect the cost of the health plan chosen by the large employer. If their current plan does not meet minimum requirements the premium of an approved plan will more than likely increase to account for the increase in benefits.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule will impact 65 health insurers that sell insurance in Utah. Health insurers may need to develop new products, train their workforce, and update their computer program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Utah has chosen to designate its own essential health benefits rather than accept the federal determination. The benefits designated by the Health System Reform Task Force and myself were selected in order to maximize choice and minimize the premium impact on employers. Fiscal impacts for health insurers may be minimally dependent on their current plan designs.

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](mailto:jwhitby@utah.gov)

EFFECTIVE: 08/30/2012

AUTHORIZED BY: Jilene Whitby, Information Specialist

#### **R590. Insurance, Administration.**

##### **R590-266. Utah Essential Health Benefits Package.**

##### **R590-266-1. Authority.**

This rule is promulgated pursuant to Subsection 31A-30-116(3)(b) wherein the commissioner is directed to adopt a rule for purposes of designating the essential health benefits for Utah.

##### **R590-266-2. Purpose and Scope.**

(1) The purpose of this rule is to designate an essential health benefits package in Utah as provided by Section 1302 of the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care Education Reconciliation Act of 2010 (ACA).

(2) This rule applies to all non-grandfathered individual and small employer health benefit plans issued or renewed on or after January 1, 2014.

##### **R590-266-3. Definitions.**

In addition to the definitions in Sections 31A-1-301 and 31A-30-103, the following definitions shall apply for the purpose of this rule:

(1) "Essential health benefits" means the following health care service categories that must be included in non-grandfathered individual and small employer health benefit plans beginning January 1, 2014:

- (a) ambulatory patient services;
- (b) emergency services;
- (c) hospitalization;
- (d) maternity and newborn care;
- (e) mental health and substance use disorder services, including behavioral health treatment;
- (f) prescription drugs;
- (g) rehabilitative and habilitative services and devices;
- (h) laboratory services;
- (i) preventive and wellness services and chronic disease management; and
- (j) pediatric services, including oral and vision care.

(2) "Grandfathered health plan" means an individual or small employer health benefit plan that:

(a) was in existence when the ACA was enacted on March 23, 2010;

(b) has not had any significant changes that reduce benefits or increase costs to consumer including:

- (i) a significant cut or reduction in benefits, such as excluding coverage for people with diabetes;
- (ii) an increase in co-pays by more than \$5, adjusted annually for medical inflation, or a percentage equal to medical inflation plus 15%;
- (iii) the employer reduces contributions by more than five percentage points; or
- (iv) reducing annual dollar limits, or adding a new limit;

and

(c) the insured has received notification from the carrier that their health benefit plan is a grandfathered plan.

(3) "Non-Grandfathered health plan" means an individual or small employer health benefit plan:

(a) that is issued after the ACA was enacted on March 23, 2010; or

(b) a grandfathered health plan that has made significant changes that reduce benefits or increase costs to consumers that has caused the plan to lose the grandfathered status as provided in (2) (b).

(4) "Utah Essential Health Benefits Package" means the benefits designated in this rule by the commissioner as essential health benefits in non-grandfathered plans for the purposes of the ACA in Utah.

##### **R590-266-4. Utah Essential Health Benefits.**

As outlined in Section 31A-30-116, Utah has chosen to designate its own essential health benefits rather than accept a federal determination. On August 16, 2012, the Chairmen of the Legislature's Health System Reform Task Force (Task Force) notified the commissioner that the Task Force had voted to recommend the Public Employees Health Program's (PEHP) Utah Basic Plus Plan as Utah's Essential Health Benefit Package for the purposes of the ACA.



(1)(a) The commissioner hereby designates the PEHP Utah Basic Plus plan as the Utah Essential Health Benefits Package for purposes of the ACA in Utah.

(b) The PEHP Utah Basic Plus 2012 Plan as incorporated herein and available at <http://insurance.utah.gov/health/healthreform.html>.

(2)(a) Except as provided in Subsection (b), an individual or small employer carrier who issues or renews a non-grandfathered plan on or after January 1, 2014, must include at a minimum the benefits of the Utah Essential Health Benefits Package.

(b) A carrier may substitute coverage provided in the Utah Essential Health Benefits Package as long as substitutions are actuarially equivalent and complies with the standards set forth in 42 CFR 457.431.

(3) This rule does not prohibit an individual or small employer carrier from offering a non-grandfathered plan with benefits in addition to the Utah Essential Health Benefits Package.

**R590-266-5. Penalties.**

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

**R590-266-6. Enforcement Date.**

The commissioner will begin enforcing this rule January 1, 2014.

**R590-266-7. Severability.**

If any provision of this rule or its application to any person or circumstances is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances shall not be affected thereby.

**KEY: essential health benefit insurance**

**Date of Enactment or Last Substantive Amendment: August 30, 2012**

**Authorizing, and Implemented or Interpreted Law: 31A-30-116(3)(b)**

**End of the Notices of 120-Day (Emergency) Rules Section**



# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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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.

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## Agriculture and Food, Plant Industry **R68-15** Quarantine Pertaining to Japanese Beetle

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 36697  
FILED: 08/28/2012

### 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: Promulgated under authority of Subsections 4-2-2(1)(j) and 4-2-2(1)(1)(ii). These provisions allow the Utah Department of Agriculture and Food when necessary, to issue orders, and make recommendations concerning all matters related to agriculture.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received in support of the rule or opposing 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: Japanese beetle, *Popillia japonica*, is a beetle, family Scarabaeidae, which in the larval state attacks the roots of many plants and as an adult attacks the leaves and fruits of many plants. This rule protects Utah's agricultural industries from increased production costs and loss of markets that would occur due to the presence of

Japanese beetle. The rule limits imports of plants, plant parts, and soil, which are carriers of Japanese beetle life stages. This rule requires certification of host material by the agricultural officials of the exporting state listed in the quarantine, and dispenses violations. The Japanese Beetle Harmonization Plan is referenced in this rule to give guidance for treatment protocols. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at [kmathews@utah.gov](mailto: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](mailto:kylestephens@utah.gov)
- ◆ Robert Hougaard by phone at 801-538-7187, by FAX at 801-538-7189, or by Internet E-mail at [rhougaard@utah.gov](mailto:rhougaard@utah.gov)

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 08/28/2012

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Governor, Energy Development (Office  
of)  
**R362-2**  
Renewable Energy Systems Tax  
Credits

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 36701  
FILED: 08/30/2012

**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: Pursuant to Sections 59-7-614, 59-10-1014, and 59-10-1106, the Office of Energy Development and the Utah Tax Commission may each make rules that are necessary to implement renewable energy tax credits for corporate and individual income tax filers.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Neither the Office of Energy Development, nor the Utah Geological Survey where the rule was formerly housed, have received any written comments supporting or opposing 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: This rule should be continued because in the absence of it the Renewable Energy Systems Tax Credit would not have the legal and administrative framework that it requires in order to be carried out responsibly. Indeed, the rule is an invaluable guide both due to its clear and concise definitions, as well as its detailed delineation of tax credit qualification criteria and tax credit application and administration processes. The Renewable Energy Systems Tax Credit for which this rule is the guiding document is both a remarkably popular and beneficial tool. From an economic development and revenue generation perspective, by lowering the effective cost of distributed renewable energy generation systems the Renewable Energy Systems Tax Credit both: 1) supports hundreds of jobs primarily in the rooftop solar installation contracting community, and 2) helps to lower the monthly utility costs to households and businesses, thereby unburdening monthly budgets and providing a boost to consumer spending. Without this rule, the Renewable Energy Systems Tax Credit would lack the detailed legal underpinnings that it absolutely requires in order to operate as intended.

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

GOVERNOR  
ENERGY DEVELOPMENT (OFFICE OF)  
60 E SOUTH TEMPLE  
THIRD FLOOR  
SALT LAKE CITY, UT 84111  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jeffrey Barrett by phone at 801-739-5191, or by Internet E-mail at [jhbarrett@utah.gov](mailto:jhbarrett@utah.gov)

AUTHORIZED BY: Jeffrey Barrett, Infrastructure and Incentives Manager

EFFECTIVE: 08/30/2012

**Governor, Energy Development (Office  
of)  
R362-3  
Energy Efficiency Fund**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 36702  
FILED: 08/30/2012

**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: Pursuant to Section 11-45-204, the Office of Energy Development shall make rules establishing criteria, procedures, priorities, and conditions for the award of loans from the Energy Efficiency Fund.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Neither the Office of Energy Development, nor the Utah Geological Survey where the rule was formerly housed, has received any written comments supporting or opposing 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: This rule should be continued because in the absence of it the newly rebranded U-Save Loan Program would not have the legal and administrative framework that it requires in order to be carried out responsibly. Indeed, the rule is an invaluable guide both due to its clear and concise definitions, as well as its detailed delineation of loan qualification criteria and loan fund application and administration processes. The Energy Efficiency Fund for which this rule is the guiding document is both a remarkably popular and beneficial tool, and promises to be even more so moving forward. From an economic development and revenue generation perspective, by lowering the cost associated with adopting efficiency measures for local

governments and schools, the Energy Efficiency Fund helps to reduce monthly utility costs for those critical public entities, who may then put those funds to work better serving Utahans. Without this rule, the Energy Efficiency Fund would lack the detailed legal underpinnings that it absolutely requires in order to operate as intended.

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

GOVERNOR  
ENERGY DEVELOPMENT (OFFICE OF)  
60 E SOUTH TEMPLE  
THIRD FLOOR  
SALT LAKE CITY, UT 84111  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jeffrey Barrett by phone at 801-739-5191, or by Internet E-mail at [jhbarrett@utah.gov](mailto:jhbarrett@utah.gov)

AUTHORIZED BY: Jeffrey Barrett, Infrastructure and Incentives Manager

EFFECTIVE: 08/30/2012

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**Health, Health Care Financing,  
Coverage and Reimbursement Policy  
R414-15  
Residents Personal Needs Fund**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 36672  
FILED: 08/20/2012

**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 26-18-3 requires the Department to implement Medicaid policy through administrative rules, which allow the Department to administer long-term care services to nursing facility residents. In addition, 42 CFR 483.10(c)(3)(i) requires nursing facilities to keep a resident's funds over \$50 separate from the facility, and in an interest bearing account.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary because it establishes requirements for long-term care facilities to manage and safeguard a resident's personal funds. Therefore, this rule should be continued.

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](mailto:cdevashrayee@utah.gov)

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 08/20/2012

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**Human Services, Recovery Services  
R527-300  
Income Withholding**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 36673  
FILED: 08/21/2012

**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: IV-D income withholding is mandated under Section 62A, Chapter 11, Part 4. This rule clarifies Section 62A-11-405 by explaining how an obligee can request income withholding in cases where the obligor is not delinquent on a pre-October 13, 1990, order, or where a finding of good cause or a written agreement that income withholding is not required has been entered in the order. The rule explains the verified statement of affidavit referred to in that section. The opportunity for a review and the requirements that the Office of Recovery Services (ORS) notify the obligor of the results of the review which are addressed in that section are given needed detail. Section 62A-11-406 refers to a limitation on the amount of income that

may be withheld under the Consumer Credit Protection Act, is explained more fully and it provides for withholding an amount higher than 50% point under certain circumstances. Pursuant, to Section 62A-11-406, ORS is required to notify the payor of income and the obligor of the amount of child support to be withheld. This rule provides instruction on how this notification is to be done when the payor of income has not changed and where there is a new payor of income. Termination of income withholding is addressed in Section 62A-11-408. The rule addresses specific circumstances under which income withholding should be terminated. The rule allows for the obligor to contest income withholding when it is issued by another state and registered in 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: No comments have been received during or since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The statutes under which this rule is enacted are still in effect and the rule continues to provide necessary clarification and detail for carrying out income withholding in IV-D cases. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HUMAN SERVICES  
 RECOVERY SERVICES  
 515 E 100 S  
 SALT LAKE CITY, UT 84102-4211  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ LeAnn Wilber by phone at 801-536-8950, by FAX at 801-536-8833, or by Internet E-mail at lwilber@utah.gov

AUTHORIZED BY: Mark Brasher, Director

EFFECTIVE: 08/21/2012

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Human Services, Recovery Services  
**R527-378**  
 Withholding of Social Security Benefits

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 36674  
 FILED: 08/21/2012

**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: This rule is enacted under Section 62A-11-107, which authorizes the Office of Recovery Services (ORS) to adopt, amend and enforce rules necessary to carry out its statutory responsibilities; particularly that of income withholding for collection of child support as specified in Section 62A-11-104. This rule clarifies that an income withholding notice to the Social Security Administration must be limited to 25 percent of the benefit amount if Social Security is the obligor's sole means of support.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received during or since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The statutes under which this rule is enacted are still in effect and the rule is reflected in the current policy, practices, and procedures of ORS. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HUMAN SERVICES  
 RECOVERY SERVICES  
 515 E 100 S  
 SALT LAKE CITY, UT 84102-4211  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ LeAnn Wilber by phone at 801-536-8950, by FAX at 801-536-8833, or by Internet E-mail at lwilber@utah.gov

AUTHORIZED BY: Mark Brasher, Director

EFFECTIVE: 08/21/2012

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Human Services, Recovery Services  
**R527-412**  
 Intercept of Unemployment Compensation

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 36675  
 FILED: 08/21/2012

**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: This rule is enacted under Subsection 35A-4-103(5), which authorizes the Department of Workforce Services to deduct and withhold money from an individual's unemployed compensation when that individual owes child support obligations. Section 62A-11-401 defines "immediate income withholding" and references Section 62A-11-103, which includes unemployment compensation benefits in the definition of "income". The rule references the income withholding criteria in Rule R527-300, which unemployment compensation is subject to, and Section 303(b) of the Consumer Credit Protection Act (15 USC Section 1643), which provides the exceptions to withholding 25% of the obligor's income and specifies the maximum percentage of income that may be withheld.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received during or since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The statutes under which this rule is enacted are still in effect. In addition, Rule R527-300 (Income Withholding) and Section 303(b) of the Consumer Credit Protection Act (15 USC Section 1643), which are referenced in the text of the rule remain in effect as well. The rule clarifies that unemployment compensation may be subject to garnishment if income withholding criteria do not apply, and allows for an obligor to volunteer to pay more than the required amount. These provisions are reflected in current Office of Recovery Services policy, procedures, and practices. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ LeAnn Wilber by phone at 801-536-8950, by FAX at 801-536-8833, or by Internet E-mail at [lwilber@utah.gov](mailto:lwilber@utah.gov)

AUTHORIZED BY: Mark Brasher, Director

EFFECTIVE: 08/21/2012

Human Services, Recovery Services  
**R527-601**  
Establishing or Modifying an  
Administrative Award for Child Support

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 36676  
FILED: 08/21/2012

**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: This rule is enacted under Section 78B-12-203, which requires each parent to provide verification of current income for the purpose of calculating the amount of a child support award under Utah's child support guidelines, and Section 78B-12-201, which permits the moving party in a child support action to submit the best evidence available concerning the other party's income if the financial verification required under Section 78B-12-203 is not available. It also requires that the evidence be provided in affidavit form and that a copy of the affidavit be provided to the other party before the evidence is submitted. This rule defines "best evidence available" and describes the method of providing the affidavit to the other party.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received during or 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 should be continued because the statutes under which it is enacted are still in effect and it describes what is meant by "best evidence available" and specifies the method for providing the non-moving party with an affidavit describing the evidence before the evidence is used in determining the amount of a child support award. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ LeAnn Wilber by phone at 801-536-8950, by FAX at 801-536-8833, or by Internet E-mail at lwilber@utah.gov

AUTHORIZED BY: Mark Brasher, Director

EFFECTIVE: 08/21/2012

**Human Services, Recovery Services**  
**R527-928**  
**Lost Checks**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 36677  
 FILED: 08/21/2012

**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 62A-11-107 gives the Office of Recovery Services (ORS) the authority to carry out its responsibilities under state law. Section 62A-11-104 gives ORS the authority to provide child support services to individuals if the office has received an application for child support services, the state has provided public assistance, or a child lives outside of the home in the protective custody, temporary custody, or custody or care of the state. These services include the distribution of collected child support money to a payee.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received during or since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary because of the laws that require ORS to collect and disburse collected child support money to the appropriate payee can sometime result in a lost, stolen, or forged check. The rule provides ORS with the procedures and process for assisting the payee in reissuing a warrant, if appropriate, when a check is lost, stolen, or forged. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ LeAnn Wilber by phone at 801-536-8950, by FAX at 801-536-8833, or by Internet E-mail at lwilber@utah.gov

AUTHORIZED BY: Mark Brasher, Director

EFFECTIVE: 08/21/2012

**Insurance, Administration**  
**R590-96**  
**Rule to Recognize New Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 36684  
 FILED: 08/22/2012

**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-2-201 gives the commissioner authority to make rules to implement the provisions of Title 31A. Section 31A-17-505 gives the commissioner specific authority to make rules to approve mortality tables used in determining the minimum standard of valuation for annuity contracts. The rule approves specific mortality tables for individual group annuity or pure endowment 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: The department has not received any written comments regarding this rule over the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary because it sets reserving standards. In the absence of the rule, an insurer would be allowed to hold lower, inadequate reserves that could result in the insolvency of the insurance company. 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](mailto:jwhitby@utah.gov)

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 08/22/2012

## Insurance, Administration

### **R590-216**

## Standards for Safeguarding Customer Information

### **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 36688

FILED: 08/23/2012

### **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: Subsections 31A-2-202(1), 31A-2-201(2), and 31A-2-201(3)(a) empower the commissioner to administer and enforce Title 31A, to perform duties imposed by Title 31A, and to make administrative rules to implement the provisions of Title 31A. Title V, Section 505 (15 USC 6805) empowers the Utah Insurance Commissioner to enforce Subtitle A of Title V of the Gramm-Leach-Bliley Act of 1999 (15 USC 6801 through 6820). Title V, Section 505 (15 USC 6805(b)(2)) authorizes the commissioner to issue rules to implement the requirements of Title V, Section 501(b) of the federal act. The commissioner is also authorized under Subsection 31A-23a-417(3) to adopt rules implementing the requirements of Title V, Section 501(b) of the federal 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: The department has not received any written comments regarding this rule for the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule implements the requirements of federal law regarding the disclosure of nonpublic personal information. The rule establishes standards applicable to department licensees to assist them in developing and implementing administrative, technical and physical safeguards to protect the security, and confidentiality and integrity of customer information. As long as the federal law regarding the privacy of non-public personal information is in force, and as long as the insurance industry continues to collect this type of information regarding their customers, this rule will be necessary. 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](mailto:jwhitby@utah.gov)

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 08/23/2012

## Technology Services, Administration

### **R895-3**

## Computer Software Licensing, Copyright, Control, Retention, and Transfer

### **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 36709

FILED: 08/31/2012

### **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 63F-1-206 grants the Chief Information Officer the authority to grant rules relating to

technology, including the authority to establish standards for when an agency must obtain approval before obtaining items listed in Subsection 63F-1-205(1); and Subsection 63F-1-206(1)(a)(iv) provides for the acquisition, licensing, and sale of computer software.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received during and since the last five-year review of the rule from interested person supporting or opposing 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: Section 63F-1-206 grants the Chief Information Officer the authority to grant rules relating to technology, including the authority establish standards for when an agency must obtain approval before obtaining items listed in Subsection 63F-1-205(1); and Subsection 63F-1-206(1)(a)(iv) provides for the acquisition, licensing, and sale of computer software. The purpose of this rule is to establish the State of Utah's position and its intent to: 1) comply with computer software licensing agreements and applicable federal laws, including copyright and patent laws; 2) define

the methods by which the State of Utah (State) will control and protect computer software; and 3) establish the State's right, title and interest in state-developed computer software, including the sale and transfer of such software under certain conditions. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
TECHNOLOGY SERVICES  
ADMINISTRATION  
ROOM 6000 STATE OFFICE BUILDING  
450 N STATE ST  
SALT LAKE CITY, UT 84114  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Stephanie Weiss by phone at 801-538-3284, by FAX at 801-538-3622, or by Internet E-mail at [stweiss@utah.gov](mailto:stweiss@utah.gov)

AUTHORIZED BY: Mark VanOrden, Acting Executive Director

EFFECTIVE: 08/31/2012

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**End of the Five-Year Notices of Review and Statements of Continuation Section**

## NOTICES OF RULE EFFECTIVE DATES

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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.

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### Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

### Commerce

#### Administration

No. 36416 (AMD): R151-4-306. Motion to Recuse or Disqualify a Board or Commission Member

Published: 07/15/2012

Effective: 08/21/2012

#### Real Estate

No. 36390 (AMD): R162-2f. Real Estate Licensing and Practices Rules

Published: 07/15/2012

Effective: 08/21/2012

No. 36078 (CPR): R162-57a. Timeshare and Camp Resort Rules

Published: 07/15/2012

Effective: 08/21/2012

No. 36078 (AMD): R162-57a. Timeshare and Camp Resort Rules

Published: 05/01/2012

Effective: 08/21/2012

### Community and Culture

#### Administration

No. 36353 (NEW): R182-2. Preservation Pro Fee

Published: 07/01/2012

Effective: 08/31/2012

#### Olene Walker Housing Trust Fund

No. 36327 (REP): R235-1. Olene Walker Housing Loan Fund (OWHLF)

Published: 07/01/2012

Effective: 08/31/2012

### Health

#### Children's Health Insurance Program

No. 36429 (NEW): R382-2. Electronic Personal Medical Records for the Children's Health Insurance Program

Published: 07/15/2012

Effective: 09/01/2012

#### Health Care Financing, Coverage and Reimbursement Policy

No. 36431 (NEW): R414-8. Electronic Personal Medical Records for the Medicaid Program

Published: 07/15/2012

Effective: 09/01/2012

### Natural Resources

#### Water Resources

No. 36087 (AMD): R653-2-4. Project Funding Process

Published: 05/15/2012

Effective: 08/22/2012

No. 36038 (REP): R653-8. Flaming Gorge Water Right Assignment

Published: 05/01/2012

Effective: 08/22/2012

#### Wildlife Resources

No. 36394 (AMD): R657-16. Aquaculture and Fish Stocking

Published: 07/15/2012

Effective: 08/21/2012

No. 36393 (AMD): R657-41. Conservation and Sportsman Permits

Published: 07/15/2012

Effective: 08/21/2012

No. 36397 (AMD): R657-57. Division Variance Rule

Published: 07/15/2012

Effective: 08/21/2012

No. 36396 (AMD): R657-59. Private Fish Ponds

Published: 07/15/2012

Effective: 08/21/2012

NOTICES OF RULE EFFECTIVE DATES

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Regents (Board Of)

Administration

No. 36272 (REP): R765-607. Utah Higher Education Tuition Assistance Program

Published: 06/15/2012

Effective: 08/28/2012

Auditing

No. 36362 (AMD): R865-21U-6. Liability of Purchasers and Receipt For Payment to Retailers Pursuant to Utah Code Ann. Section 59-12-107

Published: 07/01/2012

Effective: 08/27/2012

Tax Commission

Administration

No. 36361 (AMD): R861-1A-26. Procedures for Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-501 and 63G-4-204 through 63G-4-209

Published: 07/01/2012

Effective: 08/27/2012

Transportation

Operations, Maintenance

No. 36345 (NEW): R918-6. Maintenance Responsibility at Intersections, Overcrossings, and Interchanges Between Class A Roads and Class B or Class C Roads

Published: 07/01/2012

Effective: 08/20/2012

**End of the Notices of Rule Effective Dates Section**

**RULES INDEX  
BY AGENCY (CODE NUMBER)  
AND  
BY KEYWORD (SUBJECT)**

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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 August 31, 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 (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

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## 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
<b>ADMINISTRATIVE SERVICES</b>					
<u>Administration</u>					
R13-2-4	Requests for Access	36285	AMD	08/07/2012	2012-12/8
<u>Archives</u>					
R17-9	Electronic Participation at Meetings	35304	NEW	01/30/2012	2011-20/6
<u>Child Welfare Parental Defense (Office of)</u>					
R19-1-6	Child Welfare Parental Defense Oversight Committee	35205	AMD	01/12/2012	2011-18/6
R19-1-7	Electronic Meetings	35206	AMD	01/12/2012	2011-18/7
<u>Debt Collection</u>					
R21-1	Transfer of Collection Responsibility of State Agencies	36420	5YR	06/28/2012	2012-14/59
R21-2	Office of State Debt Collection Administrative Procedures	36421	5YR	06/28/2012	2012-14/60
R21-3	Debt Collection Through Administrative Offset	36422	5YR	06/28/2012	2012-14/60
<u>Facilities Construction and Management</u>					
R23-1	Procurement of Construction	36145	5YR	05/03/2012	2012-11/177
R23-1-40	Procurement of Construction	36020	AMD	08/07/2012	2012-8/4
R23-1-40	Acceptable Bid Security; Performance and Payment Bonds	36020	CPR	08/07/2012	2012-13/88
R23-1-40	Acceptable Bid Security; Performance and Payment Bonds	36632	NSC	08/23/2012	Not Printed
R23-19	Facility Use Rules	36146	5YR	05/03/2012	2012-11/177
R23-20	Free Speech Activities	36148	5YR	05/03/2012	2012-11/178
<u>Finance</u>					
R25-7	Travel-Related Reimbursements for State Employees	36112	AMD	07/01/2012	2012-10/4
R25-7-6	Reimbursements for Meals	36636	NSC	08/30/2012	Not Printed
R25-14	Payment of Attorneys Fees in Death Penalty Cases	35663	5YR	01/12/2012	2012-3/105
R25-20	Indigent Defense Funds Board, Procedures for Electronic Meetings	35975	NEW	05/22/2012	2012-8/5
<u>Fleet Operations</u>					
R27-4	Vehicle Replacement and Expansion of State Fleet	35622	5YR	01/05/2012	2012-3/105
R27-5	Fleet Tracking	35617	5YR	01/05/2012	2012-3/106
R27-5	Fleet Tracking	35623	NSC	01/31/2012	Not Printed
R27-6	Fuel Dispensing Program	35620	5YR	01/05/2012	2012-3/106
R27-7	Safety and Loss Prevention of State Vehicles	36024	AMD	06/28/2012	2012-9/4
R27-8	State Vehicle Maintenance Program	35621	5YR	01/05/2012	2012-3/107
R27-9	Dispensing Compressed Natural Gas to the Public	35727	NEW	03/26/2012	2012-4/6

Purchasing and General Services

R33-1	Utah State Procurement Rules Definitions	35664	AMD	03/30/2012	2012-3/4
R33-1	Utah State Procurement Rules Definitions	36423	5YR	07/02/2012	2012-14/61
R33-2	Procurement Organization	36424	5YR	07/02/2012	2012-14/61
R33-3	Source Selection and Contract Formation	35613	AMD	03/30/2012	2012-2/6
R33-3	Source Selection and Contract Formation	36425	5YR	07/02/2012	2012-14/62
R33-3-7	Types of Contracts	35667	AMD	03/30/2012	2012-3/6
R33-4	Specifications	35665	AMD	03/30/2012	2012-3/10
R33-4	Specifications	36426	5YR	07/02/2012	2012-14/62
R33-5	Construction and Architect-Engineer Selection	36428	5YR	07/02/2012	2012-14/63
R33-6-101	Revisions to Contract Clauses	35666	AMD	03/30/2012	2012-3/12
R33-8	Property Management	36430	5YR	07/02/2012	2012-14/63

Risk Management

R37-1	Risk Management General Rules	36286	5YR	05/30/2012	2012-12/81
R37-2	Risk Management State Workers' Compensation Insurance Administration	36287	5YR	05/30/2012	2012-12/81
R37-3	Risk Management Adjudicative Proceedings	36288	5YR	05/30/2012	2012-12/82
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	36289	5YR	05/30/2012	2012-12/83
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	35844	AMD	05/31/2012	2012-5/4

AGRICULTURE AND FOOD

Administration

R51-2	Administrative Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food	35614	5YR	01/04/2012	2012-3/107
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Animal Industry

R58-1	Admission and Inspection of Livestock, Poultry, and Other Animals	35691	5YR	01/18/2012	2012-4/59
R58-3	Brucellosis Vaccination Requirements	36143	EMR	05/08/2012	2012-11/167
R58-6	Poultry	35692	5YR	01/18/2012	2012-4/59
R58-10	Meat and Poultry Inspection	36249	REP	07/26/2012	2012-12/9
R58-11	Slaughter of Livestock	35866	AMD	05/15/2012	2012-5/5
R58-11	Slaughter of Livestock and Poultry	36144	NSC	05/30/2012	Not Printed
R58-16	Swine Garbage Feeding	36248	REP	07/26/2012	2012-12/10
R58-18	Elk Farming	35695	5YR	01/18/2012	2012-4/60
R58-19	Compliance Procedures	35696	5YR	01/18/2012	2012-4/60
R58-21	Trichomoniasis	36164	AMD	07/10/2012	2012-11/4
R58-22	Equine Infectious Anemia (EIA)	35694	5YR	01/18/2012	2012-4/61
R58-23	Equine Viral Arteritis (EVA)	35693	5YR	01/18/2012	2012-4/61

Marketing and Development

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R65-5	Utah Red Tart and Sour Cherry Marketing Order	36488	5YR	07/12/2012	2012-15/73
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TREASURER

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R982-402	Energy Assistance Programs Standards	36194	NEW	07/09/2012	2012-11/127
R982-402	Energy Assistance Programs Standards	36513	NSC	07/31/2012	Not Printed
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R982-408	Energy Assistance: Special State Programs	36519	NSC	07/31/2012	Not Printed
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R982-501	Olene Walker Housing Loan Fund (OWHLF)	36520	NSC	07/31/2012	Not Printed
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R990-9	Policy Concerning Enforceability and Taxability of Bonds Purchased	36522	NSC	07/31/2012	Not Printed
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### ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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	36064	R884-24P-68	AMD	06/14/2012	2012-9/71
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	36597	R638-3	NSC	08/13/2012	Not Printed
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	36516	R982-405	NSC	07/31/2012	Not Printed
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	36545	R657-64	NSC	08/08/2012	Not Printed	
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Environmental Quality, Air Quality	35778	R307-301	5YR	02/01/2012	2012-4/83	
	35781	R307-326	5YR	02/01/2012	2012-4/85	
	35782	R307-327	5YR	02/01/2012	2012-4/86	
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Environmental Quality, Air Quality	35783	R307-328	5YR	02/01/2012	2012-4/86	
<u>genetic counselors</u>						
Commerce, Occupational and Professional Licensing	36183	R156-75	AMD	07/09/2012	2012-11/15	
	36450	R156-75-102	NSC	07/25/2012	Not Printed	
<u>geology</u>						
Commerce, Occupational and Professional Licensing	35894	R156-76	5YR	02/21/2012	2012-6/37	
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Transportation, Administration	35672	R907-69	NEW	03/12/2012	2012-3/81	
Workforce Services, Administration	36210	R982-407	NEW	07/09/2012	2012-11/135	
	36518	R982-407	NSC	07/31/2012	Not Printed	
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	36125	R477-9	AMD	07/02/2012	2012-10/76	
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	36416	R151-4-306	AMD	08/21/2012	2012-14/4	
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	35745	R671-305	5YR	01/31/2012	2012-4/114
	35551	R671-305	AMD	03/26/2012	2012-2/101
	36549	R671-403	5YR	07/27/2012	2012-16/198
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	35900	R746-100	AMD	05/07/2012	2012-6/24
	36195	R746-100	AMD	07/09/2012	2012-11/94
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	36423	R33-1	5YR	07/02/2012	2012-14/61
	36424	R33-2	5YR	07/02/2012	2012-14/61
	35613	R33-3	AMD	03/30/2012	2012-2/6
	36425	R33-3	5YR	07/02/2012	2012-14/62
	35667	R33-3-7	AMD	03/30/2012	2012-3/6
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	36426	R33-4	5YR	07/02/2012	2012-14/62
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	36219	R990-11	NEW	07/09/2012	2012-11/148
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	36154	R307-401-11	NSC	05/30/2012	Not Printed
	35413	R307-405	AMD	02/02/2012	2011-23/42
	35872	R307-405-3	NSC	02/29/2012	Not Printed
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	35958	R367-1-15	AMD	05/23/2012	2012-8/6
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	35869	R428-5	AMD	06/28/2012	2012-5/83
	36027	R428-5	NSC	06/28/2012	Not Printed
	35870	R428-10	AMD	05/31/2012	2012-5/85
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