

# UTAH STATE BULLETIN

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

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

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

Division of Administrative Rules, Salt Lake City 84114

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# TABLE OF CONTENTS

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<b>NOTICES OF PROPOSED RULES</b> .....	<b>1</b>
Commerce	
Occupational and Professional Licensing	
No. 37526 (Amendment): R156-24b-503 Physical Therapist Supervisory Authority and Responsibility.....	2
Education	
Administration	
No. 37509 (Amendment): R277-469 Instructional Materials Commission Operating Procedures.....	3
No. 37510 (Amendment): R277-508 Employment of Substitute Teachers.....	8
No. 37511 (Amendment): R277-751 Special Education Extended School Year (ESY).....	10
Rehabilitation	
No. 37512 (Amendment): R280-200 Rehabilitation.....	12
Insurance	
Administration	
No. 37515 (Amendment): R590-93 Replacement of Life Insurance and Annuities.....	12
Public Service Commission	
Administration	
No. 37508 (Amendment): R746-200 Residential Utility Service Rules for Electric, Gas, Water, and Sewer Utilities.....	18
Workforce Services	
Unemployment Insurance	
No. 37517 (Amendment): R994-403 Claim for Benefits.....	23
No. 37516 (Amendment): R994-406-403 Fraud Disqualification and Penalty.....	26
 <b>FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION</b> .....	 <b>29</b>
Administrative Services	
Finance	
No. 37521: R25-5 Payment of Per Diem to Boards.....	29
No. 37522: R25-6 Relocation Reimbursement.....	29
No. 37523: R25-7 Travel-Related Reimbursements for State Employees.....	30
No. 37524: R25-8 Overtime Meal Allowance.....	30
Education	
Administration	
No. 37494: R277-469 Instructional Materials Commission Operating Procedures.....	31
No. 37495: R277-483 Persistently Dangerous Schools.....	31
No. 37496: R277-485 Loss of Enrollment.....	32
No. 37497: R277-508 Employment of Substitute Teachers.....	32
No. 37498: R277-746 Driver Education Programs for Utah Schools.....	33
No. 37499: R277-751 Special Education Extended School Year (ESY).....	33
Rehabilitation	
No. 37500: R280-200 Rehabilitation.....	34
Human Services	
Administration	
No. 37525: R495-881 Health Insurance Portability and Accountability Act (HIPPA) Privacy Rule Implementation.....	34
Child and Family Services	
No. 37501: R512-100 In-Home Services.....	35
No. 37502: R512-200 Child Protective Services, Intake Services.....	35
No. 37503: R512-201 Child Protective Services, Investigation Services.....	36
No. 37504: R512-202 Child Protective Services, General Allegation Categories.....	36
No. 37505: R512-500 Kinship Services, Placement and Background Screening.....	37
Recovery Services	
No. 37506: R527-475 State Tax Refund Intercept.....	37
Labor Commission	
Administration	
No. 37492: R600-1 Declaratory Orders.....	38

TABLE OF CONTENTS

---

Boiler and Elevator Safety  
No. 37493: R616-1 Coal, Gilsonite, or other Hydrocarbon Mining Certification..... 38

Natural Resources

Oil, Gas and Mining; Administration  
No. 37472: R642-200 Applicability..... 39

Oil, Gas and Mining; Coal  
No. 37473: R645-101 Restrictions on State Employees..... 39  
No. 37474: R645-104 Protection of Employees..... 40  
No. 37475: R645-401 Inspection and Enforcement: Civil Penalties..... 40

Oil, Gas and Mining; Non-Coal  
No. 37476: R647-6 Inspection and Enforcement: Division Authority and Procedures..... 41  
No. 37477: R647-7 Inspection and Enforcement: Civil Penalties..... 42  
No. 37478: R647-8 Inspection and Enforcement: Individual Civil Penalties..... 42

Oil, Gas and Mining; Oil and Gas  
No. 37479: R649-6 Gas Processing and Waste Crude Oil Treatment..... 43

Parks and Recreation  
No. 37519: R651-407 Off-Highway Vehicle Advisory Council..... 43

Public Safety  
Criminal Investigations and Technical Services, Criminal Identification  
No. 37514: R722-900 Review and Challenge of Criminal Record..... 44

Workforce Services  
Unemployment Insurance  
No. 37518: R994-201 Definition of Terms in Employment Security Act..... 44

**NOTICES OF RULE EFFECTIVE DATES..... 47**

**RULES INDEX**  
**BY AGENCY (CODE NUMBER)**  
**AND**  
**BY KEYWORD (SUBJECT)..... 49**

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

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

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

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least May 31, 2013. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through August 29, 2013, the agency may notify the Division of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF a CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses and the agency must start the process over.

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

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

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

**Commerce, Occupational and  
Professional Licensing  
R156-24b-503  
Physical Therapist Supervisory  
Authority and Responsibility**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 37526

FILED: 04/15/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The proposed amendment clarifies that a physical therapist shall provide treatment to a patient at least every tenth treatment, not every tenth day. Members of both the Physical Therapy Licensing Board and the Utah Physical Therapy Association have received calls requesting clarification on the issue of physical therapist treatment frequency and physical therapist aide treatment and supervisor requirements.

**SUMMARY OF THE RULE OR CHANGE:** The proposed amendment in Subsection R156-24b-503(2) reflects the Board's interpretation of the intent of the rule, which is that the physical therapist should provide at least every tenth treatment to a patient, not a treatment every tenth day.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 58-24b-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

◆ **LOCAL GOVERNMENTS:** The proposed amendment applies to licensed physical therapists and their supervisory authority and responsibility of a physical therapist assistant or physical therapy aide. As a result, the proposed amendment does not apply to local governments.

◆ **SMALL BUSINESSES:** The proposed amendment applies to licensed physical therapists and their supervisory authority and responsibility of a physical therapist assistant or physical therapy aide. There is the potential that physical therapists currently providing treatment every tenth day would begin providing every tenth treatment once the proposed amendment is made effective. This may result in an increase in costs to patients and third-party payers. However, it is just as likely that the more frequent evaluation by a physical therapist could result in decreased costs and actual savings. The proposed amendment may affect small physical therapy offices, rural medical, or home health businesses due to an increase in the number of physical therapist treatments, as

opposed to physical therapist assistant treatments, that a patient receives. The Division, however, is unable to estimate any exact costs or savings due to a wide range of circumstances.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendment applies to licensed physical therapists and their supervisory authority and responsibility of a physical therapist assistant or physical therapy aide. There is the potential that physical therapists currently providing treatment every tenth day would begin providing every tenth treatment once the proposed amendment is made effective. This may result in an increase in costs to patients and third-party payers. However, it is just as likely that the more frequent evaluation by a physical therapist could result in decreased costs and actual savings. The proposed amendment may affect small physical therapy offices, rural medical, or home health businesses due to an increase in the number of physical therapist treatments, as opposed to physical therapist assistant treatments, that a patient receives. Physical therapists may experience a slight increase in patient treatment demand; physical therapist assistants may experience a slight decrease in patient treatment demand. Patients may experience better outcomes due to more appropriate treatment plans and increased physical therapist oversight of their treatment. The Division, however, is unable to estimate any exact costs or savings due to a wide range of circumstances.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The proposed amendment applies to licensed physical therapists and their supervisory authority and responsibility of a physical therapist assistant or physical therapy aide. There is the potential that physical therapists currently providing treatment every tenth day would begin providing every tenth treatment once the proposed amendment is made effective. This may result in an increase in costs to patients and third-party payers. However, it is just as likely that the more frequent evaluation by a physical therapist could result in decreased costs and actual savings. The proposed amendment may affect small physical therapy offices, rural medical, or home health businesses due to an increase in the number of physical therapist treatments, as opposed to physical therapist assistant treatments, that a patient receives. Physical therapists may experience a slight increase in patient treatment demand; physical therapist assistants may experience a slight decrease in patient treatment demand. Patients may experience better outcomes due to more appropriate treatment plans and increased physical therapist oversight of their treatment. The Division, however, is unable to estimate any exact costs or savings due to a wide range of circumstances.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The proposed amendment modifies existing rule language to clarify that a patient receiving care from a physical therapist must be treated by the physical therapist at least every 30

days or tenth treatment, with it being permissible for additional treatments to be provided by supportive personnel who are supervised by the physical therapist. Any fiscal impact to businesses will result from their changing their scheduling practice to distribute appointments among physical therapists and supportive personnel in a manner that complies with the rule. Those costs are incidental to the rule itself and cannot be estimated, but are anticipated to be minimal.

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:

♦ Debra Hobbins by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at dhobbins@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2013

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 05/21/2013 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2013

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.**  
**R156-24b. Physical Therapy Practice Act Rule.**  
**R156-24b-503. Physical Therapist Supervisory Authority and Responsibility.**

In accordance with Section 58-24b-404, a physical therapist's supervision of a physical therapist assistant or a physical therapy aide shall meet the following conditions:

(1) a full-time equivalent physical therapist can supervise no more than three full-time equivalent supportive personnel unless approved by the board and Division; and

(2) a physical therapist shall provide treatment to a patient at least every tenth treatment [~~day~~]but no longer than 30 days from the day of the physical therapist's last treatment day, whichever is less.

**KEY: licensing, physical therapy, physical therapist, physical therapist assistant**

**Date of Enactment or Last Substantive Amendment:**  
**[November 13, 2012]2013**

**Notice of Continuation: November 15, 2011**

**Authorizing, and Implemented or Interpreted Law: 58-24b-101; 58-1-106(1)(a); 58-1-202(1)(a)**

Education, Administration  
**R277-469**  
Instructional Materials Commission  
Operating Procedures

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 37509

FILED: 04/10/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is amended to delete U-PASS language, simplify "mapping" and alignment language, and make changes in repository requirements that reflect the changing technology of instructional materials.

**SUMMARY OF THE RULE OR CHANGE:** Amendments to the rule include revising, adding, and deleting definitions, and removing language in the rule consistent with deletion of a definition, clarifying agreements, and procedures for school districts, adding special education language as appropriate, and making other minimal changes.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 53A-14-101 and Section 53A-14-107 and Subsection 53A-1-401(3)

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The changes to the rule are for clarification and consistency purposes.

♦ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. The changes to the rule are for clarification and consistency purposes.

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

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The changes to the rule are for clarification and consistency purposes.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. The changes to the rule are for clarification and consistency purposes and do not require compliance.

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

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

EDUCATION  
ADMINISTRATION  
250 E 500 S  
SALT LAKE CITY, UT 84111-3272  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2013

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

#### **R277. Education, Administration.**

#### **R277-469. Instructional Materials Commission Operating Procedures.**

##### **R277-469-1. Definitions.**

A. "Advanced placement materials" means materials used for the College Board Advanced Placement Program and classes. The program policies are determined by representatives of member institutions. Operational services are provided by the Educational Testing Service. The program provides practical descriptions of college-level courses to interested schools and student test results based on these courses to colleges of the student's choice. Participating colleges grant credit or appropriate placement, or both, to students whose test results meet standards prescribed by the college.

B. "Basic skills course" means a subject which requires mastery of specific functions to include reading, language arts, mathematics through geometry, science, in grades 4 through 12, and effectiveness of written expression.

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

D. "Commission" means the Instructional Materials Commission.

E. "Curriculum alignment" means the assurance that the material taught in a course or grade level matches the standards, objectives and assessments set by the state or school district for specific courses or grade levels.

F. "Curriculum map" means a visual representation[~~—a tool, for assisting developers to conceptualize shared visions and values which will drive the curriculum as a whole. Sometimes called a concept map, this tool clarifies a plan for knowledge construction; it shows the links and relationships between concepts.] listing topics in the instructional materials that are~~

correlated to the standards, objectives and indicators of the Utah Core.

G. "Instructional materials" means systematically arranged content in text[~~—or~~], digital, Braille and large print, and audio format which may be used within the state curriculum framework for courses of study by students in public schools, including textbooks, workbooks, computer software, online or internet courses, CDs or DVDs, and multiple forms of communication media. Such materials may be used by students or teachers or both as principal sources of study to cover any portion of the course. These materials:

(1) shall be designed for student use; and

(2) may be accompanied by or contain teaching guides and study helps;

(3) shall include all textbooks, workbooks and student materials and supplements necessary for a student to fully participate in coursework; and

(4) shall be high quality, research-based and proven to be effective in supporting student learning.

H. "Independent party" means an entity that is not the Board, not the superintendent of public instruction or USOE staff, or an employee or board member of a school district, or the instructional materials creator or publisher, or anyone with a financial interest in the instructional materials, however minimal.

I. "Integrated instructional program" means any combination of textbooks, workbooks, software, videos, transparencies, electronic devices, or similar resources used for classroom instruction of students.

J. "Instructional materials provider" means a publisher or author and self-publisher who sells or provides instructional materials for use in Utah public schools.

K. "International Baccalaureate" means college level work, limited in subject areas, which balances humanities and sciences in an interdisciplinary, global academic program that is both philosophical and practical. This multi-cultural experience emphasizes analytical and conceptual skills and aesthetic understanding for advanced students.

L. "National Instructional Materials Access Center (NIMAC)" is a central national repository established at the American Printing House for the Blind (APH) to store and to maintain NIMAS file sets. It features an automated system for allowing publishers to deposit NIMAS-conformant files within the repository. Files are checked at the Utah State Instructional Materials Access Center (USIMAC), as defined in R277-469-1S, to confirm that they are valid NIMAS-conformant files and then cataloged in a web-based database. Those who have been authorized for access have user identifications and passwords. These authorized users may search the NIMAC database and directly download the file(s) they need to convert into accessible instructional materials for those students who are in elementary and secondary schools and have qualifying disabilities.

M. "National Instructional Materials Accessibility Standard (NIMAS)" is a technical standard used by publishers to produce consistent and valid XML-based source files that may be used to develop multiple specialized formats, such as Braille, large print, digital, or audio books, for students with print disabilities.

N. "Not recommended materials" means instructional materials which have been reviewed by the Commission but not recommended.



O. "Primary instructional material" means a comprehensive basal or Core textbook or integrated instructional program for which a publisher seeks a recommendation for Core subjects designated in R277-700-4, 5, and 6.

P. "Public website" means a website designated by the USOE provided by the publisher of instructional materials, free-of-charge, to teachers and the general public, to exhibit alignment and mapping to the Core for Utah primary instructional materials.

Q. "Recommended instructional materials (RIMs)" means the recommended instructional materials searchable database provided as a free service by the USOE for the posting of evaluations and alignments to the Core of instructional materials submitted by publishers and on the public website of the publisher, if applicable, for review by the Commission and approval of the Board.

R. "State Core Curriculum (Core)" means minimum academic standards provided through courses as established by the Board which shall be completed by all students K-12 as a requisite for graduation from Utah's secondary schools. The Core is provided in R277-700.

S. "Utah State Instructional Materials Access Center (USIMAC)" is a center that receives NIMAS electronic file sets and produces them in the accessible alternate format required by students with print disabilities.

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

~~T. "Utah Performance Assessment System for Students (U-PASS)" means:~~

~~(1) criterion-referenced achievement testing of students in all grade levels in:~~

~~(a) language arts (grades 3-11);~~  
~~(b) mathematics (grades 3-7) and pre-algebra, elementary Algebra 1, Algebra 2 and geometry;~~  
~~(c) science (grades 4-8) and earth systems, biology, chemistry, and physics; and~~

~~(2) an online direct writing assessment in grades 5 and 8;~~

~~(3) a tenth grade basic skills competency test as detailed in Section 53A-1-611 (suspended through at least the 2011-2012 school year); and~~

~~(4) the use of student behavior indicators in assessing student performance.~~

~~(5) The U-PASS Performance Report is suspended through at least the 2011-2012 school year.~~

]

#### **R277-469-2. Authority and Purpose.**

A. This rule is authorized under Utah Constitutional Article X, Section 3 which vests general control and supervision over public education in the Board, by Section 53A-14-101 which directs the Board to appoint an Instructional Materials Commission and directs the Commission to evaluate instructional materials for recommendation by the Board, by Section 53A-14-107 which directs the Board to make rules that establish the qualifications of the independent parties who may evaluate and map the alignment of the primary instructional materials and requirements for the detailed summary of the evaluation and its placement on a public website, and by Section 53A-1-401(3) which allows the Board to make rules in accordance with its responsibilities.

B. The purpose of this rule is to provide definitions, operating procedures and criteria for recommending instructional materials for use in Utah public schools. The rule also provides for

mapping and alignment of primary instructional materials to the Core consistent with Utah law.

#### **R277-469-3. Use of State Funds for Instructional Materials.**

A. School districts may use funds:

(1) for any primary supplemental or supportive instructional materials that support Core ~~[or U-PASS]~~ requirements.

(2) for instructional materials selected and approved by a school or school district consistent with the standards of this rule and:

(a) consistent with established local board procedures and timelines; and

(b) consistent with Section 53A-13-101(1)(c)(iii); or

(c) consistent with Section 53A-14-102(4).

B. Schools or school districts that use any funding source to purchase materials that have not been recommended or selected consistent with law, may have funds withheld to the extent of the actual costs of those materials pursuant to Section 53A-1-401(3).

C. Free instructional materials:

(1) that are used as primary instructional materials or that are part of primary integrated instructional programs shall be subject to the same independent party evaluation and Core mapping as basal or Core material; or

(2) if free materials are provided as part of a supplemental program, they may be used as student instructional materials only consistent with the law and this rule; and

(3) shall be reviewed and recommended by the Commission or by a school in a public meeting consistent with Section 53A-14-102(4), prior to their use.

D. Charter schools are exempt from Section 53A-14-107. Despite this exemption and consistent 34 CFR 300.172(c) (2007 edition), hereby incorporated by reference, all public schools subject to a state education agency that contracts with NIMAC require publishers with whom the public schools under the control of the state education agency contract to prepare and, on or before delivery of the print instructional materials, provide to NIMAC electronic files containing the contents of the print instruction materials using the NIMAS or purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats.

E. Notice to publishers

(1) All traditional and charter public schools shall be responsible for notifying all publishers with whom they contract for instructional materials beginning October 1, 2008 that all materials shall be provided consistent with R277-469-3D.

(2) Traditional and charter schools shall include a copy of R277-469, drawing publishers' attention to this provision of the rule, with the notice to publishers from whom the schools purchase materials.

(3) Schools shall provide publishers with timely notice of this requirement.

#### **R277-469-4. Instructional Materials Commission Members Terms of Service.**

A. Members shall be appointed from categories designated in Section 53A-14-101.

B. Members of the Commission shall serve four year terms, staggered to ensure continuity in the efficient operation of the

Commission. Members may apply for reappointment for one additional term.

C. The Commission may establish subcommittees as needed.

**R277-469-5. Commission Review of Materials.**

A. The primary focus of instructional materials review shall be materials used in subjects [~~assessed under U-PASS~~ aligned with Core requirements] to include reading, language arts, mathematics through geometry, science, in grades 4 through 12, and effectiveness of written expression, and other Core subject areas as assigned by the Board.

B. Subject areas and timelines for review shall be determined by the Commission based on school district needs and requests, and using forms and procedures provided by the USOE.

C. Commission review of material takes place at least annually.

**R277-469-6. Review and Adoption Categories.**

Materials may be considered for review by the Commission and designated under the following categories. They may be purchased with state funds and used consistent with this rule:

A. Recommended Primary: Instructional materials that:

(1) are in alignment with content, philosophy and instructional strategies of the Core;

(2) have been mapped and aligned to the Core, consistent with Section 53A-14-107 after the 2012-2013 school year;

(2) are appropriate for use by students as principal sources of study;

(3) provide comprehensive coverage of course content; and

(4) support Core[ ~~or U-PASS~~] requirements[ ~~or both~~].

B. Recommended Limited: Instructional materials that are in limited alignment with the Core[ ~~or U-PASS~~] requirements or are narrow or restricted in their scope and sequence. If school districts or schools select and purchase materials designated under this category, it is recommended that they have a plan for using appropriate supplementary materials assuring coverage of Core requirements.

C. Recommended Teacher Resource: Instructional materials that are appropriate as resource materials for use by teachers.

D. Recommended Student Resource: Instructional materials aligned to the Core[ ~~or that support U-PASS~~] that are developmentally appropriate, but not intended to be the primary instructional resource. These materials may provide valuable content information for students.

E. Reviewed, but not Recommended: Instructional materials that may not be aligned with the Core, may be inaccurate in content, include misleading connotations, contain undesirable presentation, or are in conflict with existing law and rules. School districts are strongly cautioned against using these materials.

F. Not Sampled: Instructional materials that were included in the publisher bid but were not sampled to the USOE or the Commission.

**R277-469-7. Criteria for Recommendation of Instructional Materials Following Mid-Party Evaluation of Core Curriculum.**

A. Instructional materials shall:

(1) be consistent with Core[ ~~or U-PASS~~] requirements or both;

(2) if used as primary materials, be mapped and aligned to the Core consistent with Section 53A-14-107 and state adopted assessments as applicable for the 2012-2013 school year;

(3) be high quality, research-based and proven to be effective in supporting student learning;

(4) provide an objective and balanced viewpoint on issues;

(5) include enrichment and extension possibilities;

(6) be appropriate to varying levels of learning;

(7) be accurate and factual;

(8) be arranged chronologically or systematically, or both;

(9) reflect the pluralistic character and culture of the American people and provide accurate representation of diverse ethnic groups;

(10) be free from sexual, ethnic, age, gender or disability bias and stereotyping; and

(11) be of acceptable technical quality.

B. Publishers, when submitting new primary material to be evaluated by the USOE, shall submit an electronic version in NIMAS file format of that material to the National Instructional Materials Access Center (NIMAC) for use in conversion into Braille, large print, and other formats for students with print disabilities.

C. USOE review:

(1) The USOE may require a school district to provide a report of instructional materials purchased by the school district or a school in the previous five years.

(2) The USOE may initiate a formal or informal audit of instructional materials purchased to determine purchase or use of instructional materials consistent with the law or this rule.

**R277-469-8. Agreements and Procedures for School Districts.**

A. A local board shall establish a policy for school district and school selection and purchase of instructional materials.

B. As part of any materials adoption process or procurement contract for the purpose of purchasing instructional materials, an LEA shall provide instructional materials to all students, including blind students and other students with disabilities, in a timely manner.

(1) A publisher may provide materials in electronic files to NIMAC to make materials available to eligible students.

(2) LEAs shall include NIMAS contract language in all contracts with publishers for Core materials.

(3) LEAs may purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats for eligible students.

[B]C. The detailed Core curriculum alignment shall be required prior to the purchase of primary instructional materials by public schools and school districts purchased for the 2012-2013 school year.

**R277-469-9. Qualifications for Core Curriculum Alignment Independent Parties.**

Independent parties required to meet mapping and alignment requirements for the 2012-2013 school year shall use

reviewer(s)/employee(s) who meet the following minimum requirements:

(1) have a degree or an endorsement specific to the subject area of the primary instructional materials. For example, a reviewer who is aligning an American literature text shall have an English endorsement or degree; a reviewer who is mapping a calculus text shall have a mathematics endorsement or a related mathematics degree. The USOE shall make available to independent parties a list of acceptable endorsements or degrees that shall be current and valid for appropriate review of materials; and  
~~[(2) may not be current employees of a publishing company seeking the alignment and map of primary instructional materials;~~  
 ] ~~(3)~~ shall post documentation of credentials and endorsements on a public website designated by the USOE as required under Section 53A-14-107(3)(b).

#### **R277-469-10. Detailed Summary Requirements.**

Independent parties required to meet mapping and alignment requirements for the 2012-2013 school year shall provide to the publisher a detailed summary of the evaluation. The summary shall:

A. be provided on a public website required under Section 53A-14-107(3)(b) designated by the USOE;

B. submit the summary in the alignment template provided by the USOE;

C. submit the summary in a searchable, software database format designated by the USOE;

D. include detailed alignment information that includes at a minimum:

- (1) the title of the material;
- (2) the ISBN number;
- (3) the publisher's name;
- (4) the name/grade of the Core document used to align the material;
- (5) the overall percentage of coverage of the Core;
- (6) the overall percentage of coverage in ancillary resources of the material to the Core;
- (7) the percentage of coverage of the Core in the material for each standard, objective and indicator in the Core with corresponding page numbers;
- (8) percentage of coverage of the Core not covered in the material but covered in the ancillary resources for each standard;
- (9) objective and indicator in the Core with corresponding page numbers; and

E. provide the detailed alignment information listed in R277-469-10D(4) for the student text for all editions of the text that are used in Utah public schools;

F. provide the detailed alignment information listed in R277-464-10D(4) for a teacher edition of text, if a teacher edition is used in Utah public schools;

~~[(3) G. provide a map of the materials detailing when the materials should be used in a 180 day school schedule including the standard, objective and indicator of the item to be taught with corresponding page numbers; the recommended use of the material, such as to introduce a concept, to gain information about a concept, to extend understanding of a concept, to apply a concept, or to assess a concept; and hyperlinks to other materials, websites, or lesson plans that correspond to the concept.~~

] ~~(H)~~G. designate at the conclusion of the alignment document, the reviewer's evaluation of the material's alignment to the Core curriculum on a scale of 1-10, with 10 indicating the closest alignment to the Utah Core curriculum; and

~~(H)~~H. provide an assurance, including a personal (electronic is adequate) signature that the work was completed personally and as required by the licensed and endorsed reviewer.

#### **R277-469-11. Agreements and Procedures for Publishing Companies.**

A. Beginning with the 2012-2013 school year, publishing companies desiring to sell primary instructional materials to Utah school districts and schools shall:

(1) contract with an independent party who meets the requirements in R277-469-9 to align and map the primary instructional material and related ancillary materials to the appropriate Utah Core with the following provisions:

(a) the publisher provides a detailed summary of the Core alignment and mapping as described in R277-469-10 at no charge; and

(b) the publisher pays the costs associated with the requirements of Section 53A-14-107.

(2) The requirements under R277-469-9-A(1) shall only be performed by entities consistent with Section 53A-14-107(2).

B. Publishers seeking to sell recommended materials to Utah schools or school districts shall have all books and tangible adopted materials on deposit at an instructional materials depository in the business of selling instructional materials to schools or school districts in Utah.

C. Depository agreements may be made between publishers of materials and one or more depository.

D. The provisions of R277-469-11 shall not preclude publishers from selling instructional materials to schools or school districts in Utah directly or through means other than the designated depository. Digital and online resources do not require storage in a depository within the state, but shall guarantee timely resource availability of a placed order and shall be provided without shipping charges.

E. Comparable materials shall be prepared for students with disabilities in a timely manner.

~~(E)~~E. Recommended materials with revisions:

(1) If a revised edition of recommended materials retains the original title and authorship, the publisher may request its substitution for the edition currently recommended providing that:

(a) the original contract price and contract date do not change and the original contract price applies for the substituted materials;

(b) the revised edition is compatible with the earlier edition, permitting use of either or both in the same classroom;

(c) a sample copy of the revised edition is provided to the USOE Instructional Materials Specialist for examination purposes;

(d) the publisher submits a revised electronic edition in NIMAS file format to the National Instructional Materials Access Center (NIMAC) if the USOE approves the substitution request; and

~~[(e) a new curriculum alignment and map summary is provided after the 2012-2013 school year.~~

] (2) The Commission shall make the final determination about the substitution of a new edition for a previously

recommended edition with assistance from the state subject area specialist.

[F]G. A publisher's contract price for materials recommended by the Commission shall apply for five years from the contract date.

**R277-469-12. Request for Reconsideration of Recommendation.**

A. A request for reconsideration is an additional opportunity provided to a school district, school or publisher for review of instructional materials when the school district, school or the publisher disagrees with the initial Commission recommendation.

B. The request for reconsideration procedure is as follows:

(1) A school district, school or publisher shall receive the evaluations and recommendations from the USOE of the initial review.

(2) A school district, school or publisher shall have 30 days to respond to the evaluation and request to have materials reviewed again during the next review cycle.

(3) During the period of the reconsideration request, materials shall be marked as tentative and shall not be given official status. These materials shall not be posted to the Internet site until recommended through the official Commission process.

(4) A school district, school or publisher may be asked to send a second set of sample materials to the USOE.

(5) Any written information provided by a school district, school or publisher shall be available to the advisory committees during the second review.

(6) After the second review by the subject area advisory committee, the advisory committee's recommendation shall be voted on by the Commission at the next scheduled meeting.

(7) If the Commission votes to change the recommendation, ~~[the Board shall consider the Commission's revised recommendation at the next scheduled Board meeting and make a final decision.]~~ [the Board shall be notified of the action at the next scheduled Board meeting.]

(8) A school district, school or publisher shall receive written notification ~~[that a]of the final~~ recommendation ~~[is final]~~ and shall receive a copy of the new evaluation. Evaluations may ~~[now]~~ appear on the Internet if materials are recommended.

**KEY: instructional materials**

**Date of Enactment or Last Substantive Amendment:** ~~[August 9, 2010]~~ **2013**

**Notice of Continuation:** April 8, 2013

**Authorizing, and Implemented or Interpreted Law:** Art X, Sec 3; 53A-14-101; 53A-14-107; 53A-1-401(3)

Education, Administration  
**R277-508**  
Employment of Substitute Teachers

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 37510

FILED: 04/10/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is amended to add a definition of LEA to make the rule consistent with other Board rules, to clarify the duration of a teaching assignment for a substitute teacher, and to add the requirement of a minimal background check for substitute teachers.

**SUMMARY OF THE RULE OR CHANGE:** The amendments to the rule add the definition of LEA and revise the rule to reflect the change throughout, clarify the duration of a teaching assignment for a substitute teacher by changing it from eight weeks to eight consecutive weeks, and add the requirement of a minimal background check for substitute teachers.

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

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The changes to the rule are for clarification and consistency purposes.

◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. The changes to the rule are for clarification and consistency purposes.

◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule and the amendments apply to public education and do not affect businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The changes to the rule are for clarification and consistency purposes.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. Although there is language for a background check, LEAs already require minimal background checks.

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

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

EDUCATION  
ADMINISTRATION  
250 E 500 S

SALT LAKE CITY, UT 84111-3272  
or at the Division of Administrative Rules.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2013

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

### **R277. Education, Administration.**

#### **R277-508. Employment of Substitute Teachers.**

##### **R277-508-1. Definitions.**

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

B. "Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS)" means the electronic file maintained on all licensed Utah educators. The file includes such as:

- (1) personal directory information;
- (2) educational background;
- (3) endorsements;
- (4) employment history;
- (5) professional development information; and
- (6) a record of disciplinary action taken against the educator.

C. "LEA" mean a local education agency, including local school boards/public school districts, charter schools, and for purposes of this rule, the Utah Schools for the Deaf and the Blind.

[E]D. "License" means an authorization issued by the Board which permits the holder to serve in a professional capacity in the public schools.

[D]E. "Substitute teacher" means an individual employed to take the place of a regular teacher temporarily absent.

[E]E. "Temporarily absent" means a period not to exceed eight consecutive weeks.

##### **R277-508-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution, Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-402(1)(a) which directs the Board to make rules regarding the qualifications of educators and ancillary personnel providing direct student services, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to establish eligibility requirements and employment procedures for substitute teachers.

##### **R277-508-3. Duration of Teaching Assignment.**

A. A substitute teacher may not serve in a teaching position for more than eight consecutive weeks in one academic

year in either the same class or with the same group of students. Individuals serving in the same teaching position for longer than eight weeks shall hold an appropriate license or be replaced by a person with an appropriate license.

B. The State Superintendent of Public Instruction may grant exceptions to R277-508-3A, as appropriate, in special circumstances.

##### **R277-508-4. Hiring Priorities and Eligibility.**

A. The first priority in hiring substitute teachers shall be given to those who hold a valid license in the subject matter they will be teaching as a substitute. Second priority is to hire persons who have a valid license in a field commonly taught in public schools.

B. It is desirable that a substitute teacher hold a valid license or a college degree. An [district]LEA shall evaluate persons hired as substitutes to ensure that they are capable of managing a class and carrying out the instructional program.

C. Persons seeking employment as a substitute teacher shall furnish evidence as requested from the hiring ~~[school-district]LEA~~ that they are physically and mentally fit to work.

D. ~~[School-districts]LEAs~~ may not employ any individual as a substitute teacher whose license has been revoked or is currently suspended by the Board or whose license has been revoked or is currently suspended by another state. Individuals whose licenses have been reinstated may be considered for employment as substitute teachers.

##### **R277-508-5. Employment Procedures.**

A. ~~[School-districts]LEAs~~ shall establish ~~[a-]polic[y]ies~~ for hiring substitute teachers. ~~[The]An LEA's~~ policy shall include obtaining verification from CACTUS that an applicant's license has not been revoked or suspended.

B. An LEA shall require substitute teachers to have periodic criminal background checks consistent with an LEA's policy under R277-516 for employees that work directly with students.

[B]C. ~~[School-districts]LEAs~~ shall have a policy to evaluate substitute teachers including a salary schedule to pay substitutes according to their training, experience, and competency.

[E]D. Regular teachers ~~[are required to]~~shall have lesson plans immediately available for use by substitute teachers.

[D]E. A [S]tudent teacher[s] may substitute in classes consistent with the instructions and policies from the higher education institution which the student attends.

[E]E. Paraprofessionals and ~~[A]aid[e]s~~ may substitute in classes consistent with ~~[school-district]LEA~~ or school polic[y]ies.

**KEY: teachers, professional competency, school personnel  
Date of Enactment or Last Substantive Amendment: [August 15, 2003]2013**

**Notice of Continuation: April 8, 2013**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(a); 53A-1-401(3)**

Education, Administration  
**R277-751**  
 Special Education Extended School  
 Year (ESY)

**NOTICE OF PROPOSED RULE**

(Amendment)  
 DAR FILE NO.: 37511  
 FILED: 04/10/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is amended to change the definition of extended school year (ESY) to make it consistent with a new definition recently added to Rule R277-600.

**SUMMARY OF THE RULE OR CHANGE:** The definition of extended school year (ESY) is amended to make it consistent with the definition in Rule R277-600.

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

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. A definition is changed to make it consistent with a recently changed definition in another rule.
- ◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. A definition is changed to make it consistent with a recently changed definition in another rule.
- ◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule applies to public education and does not affect businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. A definition is changed to make it consistent with a recently changed definition in another rule.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. A definition is changed to make it consistent with a recently change definition in another rule.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED,  
 DURING REGULAR BUSINESS HOURS, AT:  
 EDUCATION  
 ADMINISTRATION  
 250 E 500 S

SALT LAKE CITY, UT 84111-3272  
 or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2013

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

**R277. Education, Administration.**

**R277-751. Special Education Extended School Year (ESY).**

**R277-751-1. Definitions.**

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

B. ~~["ESY" means extended school year.]~~ Extended school year (ESY) means an extension of the school district or charter school traditional school year to provide special education and related services to a student with a disability, in accordance with the student's IEP, and at no cost to the student's parents. ESY services shall meet the standards of Part B of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1401(3) and the State Board of Education Special Education Rules.

C. "ESY ~~program~~ services" means the individualized education program provided by the school to a student with a disability during the ESY.

~~["ESY services" means special education and related services that are provided to a student with a disability beyond the normal school year of the LEA, in accordance with the student's IEP, at no cost to the student's parents, and meet the standards of the USOE.~~

~~[F]D.~~ [E]D. "FAPE" means a free appropriate public education which includes special education and related services that are provided at public expense, under public supervision and direction, and without charge; meet the standards of the USOE and Part B of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1401(3), include preschool, elementary school and secondary school education in Utah; and are provided in conformity with an IEP that meets the requirements of Part B of the IDEA and Utah State Board of Education Special Education Rules.

~~[F]E.~~ [E]E. "IEP" means a written statement of an individualized education program by an IEP team and developed, reviewed, and revised in accordance with Utah State Board of Education Special Education Rules and the Part B of the IDEA.

~~[G]E.~~ [G]E. "IEP team" means a group of individuals that is responsible for developing, reviewing, and revising an IEP for a student with a disability.

~~[H]G.~~ [H]G. "LEA" means a local education agency which includes school boards/public school districts, charter schools, and, for the purposes of this rule, the Utah Schools for the Deaf and the Blind.

[F]H. "Procedural Safeguards" means the procedural rights designed to protect the rights of students with disabilities and their parents. Requirements are defined in IDEA and Utah State Board of Education Special Education Rules, and include the parent's right to participate in meetings, review educational records, request an independent educational evaluation, receive written prior notice of actions proposed or refused by the LEA, and consent to evaluations and special education services. Procedural Safeguards also describe dispute resolution options.

[J]I. "Regression" means reversion to a lower level of functioning, evidenced by a decrease in the level of basic behavioral or academic patterns, or both, or skills, which occurs as a result of an interruption in educational programming. These behaviors or skills are specified on a student's current IEP.

[K]J. "Recoupment" means recovery of basic behavioral or academic patterns, or both, or skills, specified on the IEP, to a level demonstrated prior to the interruption of educational programming.

[E]K. "Student with a disability" means a student who meets eligibility criteria for special education and related services, as defined in the Utah State Board of Education Special Education Rules.

[M]L. "USOE" means the Utah State Office of Education.

**R277-751-2. Authority and Purpose.**

A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-402(1)(c) which directs the Board to adopt rules regarding services to students with disabilities and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify the standards for the special education ESY.

**R277-751-3. Determining Eligibility.**

A. ~~A~~ [S]student[s] eligible for ESY ~~[services are] is~~:

(1) ~~a~~ student[s] who ha~~ve~~s been determined as eligible under Utah State Board of Education Special Education Rules and Part B of the IDEA; and

(2) ~~a~~ student[s] whose IEP team has determined, based upon a review of multiple data sources and factors, on an individual basis, an ESY is required to receive FAPE.

B. The student's IEP shall reflect the IEP team's decision regarding need for ESY services.

(1) Parents shall be provided with written prior notice of proposal or refusal to provide ESY services.

(2) If determined as eligible for ESY services, the IEP team shall determine the appropriate ESY ~~[program]services~~, based on the student's individual needs.

(3) ESY eligibility decisions and written prior notice of ESY ~~[programs]services~~ shall be provided to parents in sufficient time to permit accessing dispute resolution options of the Procedural Safeguards, in the event of a dispute.

**R277-751-4. ESY Program Standards.**

A. The primary goal for a student requiring ESY services is to maintain the current level of the student's academic and

functional skills and behavior in areas identified by the student's IEP in order to provide FAPE.

B. LEAs may not:

(1) limit ESY to particular categories of disabilities or particular ages or grade levels of students.

(2) unilaterally limit the type, amount, or duration of ESY services provided for students.

(3) limit data consideration by IEP teams to only an analysis of regression and recoupment.

C. LEAs shall ensure that:

(1) ESY student ~~[programs]services~~ are provided in the least restrictive environment.

(2) ESY teachers and paraprofessionals meet IDEA's highly qualified requirements.

**R277-751-5. Division of Responsibilities.**

A. The duties of the Utah State Office of Education shall include:

(1) monitoring ESY compliance through:

(a) LEA program administrative reviews, such as Utah Program Improvement Planning System (UPIPS) monitoring;

(b) requiring student attendance and membership accountability.

(2) providing technical assistance to LEAs;

(3) collecting data on:

(a) the number, disabilities, and levels of students served;

(b) the types of program delivery models used;

(c) costs of the ESY ~~[program]services~~ in LEAs;

(d) program effectiveness.

(4) developing guidelines for LEAs.

B. The duties of LEAs shall include:

(1) establishing LEA procedures which are in accordance with Board rules;

(2) providing professional development and on-site visits to assure that Board and LEA procedures are appropriately understood and implemented;

(3) establishing timelines to accomplish the purposes of this rule;

(4) analyzing LEA needs, reported by professionals, for ESY services for individual, eligible students;

(5) determining LEA ESY ~~[program]services~~ parameters based upon data received from educators on individual, eligible students. The parameters shall include the personnel required to provide special education and related services, location of services, and budget specifications;

(6) ensuring parents and professionals have received information about dispute resolution procedures for the appeal of ESY eligibility decisions and ESY ~~[program]services~~ parameters;

(7) implementing processes to collect program effectiveness data.

**KEY: exceptional children, extended school year**

**Date of Enactment or Last Substantive Amendment: ~~February 7, 2012~~2013**

**Notice of Continuation: April 8, 2013**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(c); 53A-1-401(3); 53A-17a-112(3)**

Education, Rehabilitation  
**R280-200**  
 Rehabilitation

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 37512  
 FILED: 04/10/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is amended to update the revision dates of the Rehabilitation Act of 1973 and the Case Service Manual for the Vocational Rehabilitation Program.

**SUMMARY OF THE RULE OR CHANGE:** The amendments to the rule change the revision dates of the Rehabilitation Act of 1973 from 1992 to 1998 and the Case Service Manual from 1998 to 2012.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 53A-24-105

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. Revision dates are changed as necessary.
- ◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. Revision dates are changed as necessary.
- ◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule applies to the Utah State Office of Rehabilitation and does not affect businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to the persons other than small businesses, businesses, or local government entities. Revision dates are changed as necessary.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. Revision dates are changed as necessary.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 EDUCATION  
 REHABILITATION  
 250 E 500 S

SALT LAKE CITY, UT 84111-3272  
 or at the Division of Administrative Rules.

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

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2013**

**THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2013**

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

**R280. Education, Rehabilitation.**

**R280-200. Rehabilitation.**

**R280-200-1. Authority and Purpose.**

A. This rule is authorized by Section 53A-24-105 which permits the Utah State Board of Education to administer funds made available for vocational rehabilitation and independent living.

B. The purpose of this rule is to establish the standards and procedures for the Utah State Office of Rehabilitation.

**R280-200-2. Standards and Procedures for Vocational Rehabilitation.**

A. The Utah State Board of Education adopts and incorporates by reference within this rule the standards and procedures of: the Rehabilitation Act of 1973, P.L. 102-569 (amended in 199[2]8).

B. In addition, the Utah State Board of Education shall conduct the Rehabilitation Program consistent with:

(1) All state plans which are required and submitted under P.L. 102-569, including those for Vocational Rehabilitation, Title VI C, and Independent Living Rehabilitation Services and

(2) The Case Service Manual for the Vocational Rehabilitation Program, developed by the Utah State Office of Rehabilitation, [~~1998~~2012], available from the Utah State Office of Rehabilitation and from vocational rehabilitation counselors employed by the Utah State Office of Rehabilitation.

**KEY: vocational education, rehabilitation**

**Date of Enactment or Last Substantive Amendment:** [~~September 16, 1997~~2013]

**Notice of Continuation:** April 8, 2013

**Authorizing, and Implemented or Interpreted Law:** 53A-24-105

Insurance, Administration  
**R590-93**  
 Replacement of Life Insurance and  
 Annuities



**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 37515

FILED: 04/11/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Changes are being made to the rule as a result of the passage of H.B. 47 (2013 General Session) that codified Section R590-93-4 of this rule.

**SUMMARY OF THE RULE OR CHANGE:** The following changes have been made to this rule. A new code reference has been added to the Authority section of the rule, and is referenced throughout the rule. Section R590-93-4 is the section that has been inserted into the code as Section 31A-22-429. Subsection R590-93-5(3)(b) clarifies that the life or annuity policy being sold to an individual will replace, discontinue, or change existing policy or contract. Subsection R590-93-5(4) allows insurers to let their producers use one of two different replacement notices with a life or annuity application. Subsection R590-93-7(2) clarifies that within five days of receiving the replacement notice the insurer will send information to the insured about the right to receive information regarding the existing contract or contract values. The Enforcement Date section is being changed to say that the changes to the rule will go into effect immediately. This is because the law is already in place.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 31A-2-201 and Section 31A-22-429 and Section 31a-23a-402

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The changes to this rule will create no additional work for the department. Insurers will not be required to create or send additional filings to the department. These changes will not create additional revenue or expense on the department or state's budget.

◆ **LOCAL GOVERNMENTS:** This rule will have no impact on local government since it deals solely with the process of selling life policies and annuity contracts to the public.

◆ **SMALL BUSINESSES:** This rule will only impact small insurance agencies if the insurers they represent allow them to use both A and C Appendixes, as now allowed by law. Currently, agencies and their producers are required to read Appendix A to clients they have given life or annuity applications to. Appendix C does not require the producer to read it to the client. This will have no fiscal impact on agencies.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** A survey was done by a life insurance industry association and it was found that the companies had no plans to change from the current notice that is being used on a national basis. The two appendixes are already available to insurers so there are no production costs. The requirement to read the appendix notice to the client is a consumer protection practice to alert the client of the possible financial impact of replacing their

current life policy or annuity contract. By not reading the notice, the client may replace their contract or policy without realizing what effect a replacement could have on them.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** A survey was done by a life insurance industry association and it was found that the companies had no plans to change from the current notice that is being used on a national basis. The two appendixes are already available to insurers so there are no production costs. The requirement to read the appendix notice to the client is a consumer protection practice to alert the client of the possible financial impact of replacing their current life policy or annuity contract. By not reading the notice the client may replace their contract or policy without realizing what effect a replacement could have on them.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The changes in this rule will have very little to no impact on the insurance industry. It appears that most insurers will continue to require their producers to just use Appendix A. Consumers of these insurers will continue to have the protection that results from having the agent read Appendix A to them, alerting them to financial hazards that may result if they replace their life or annuity policy. Appendix C is already available so there would be no additional development or copying costs required.

**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 05/31/2013**

**THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2013**

**AUTHORIZED BY: Todd Kiser, Commissioner**

**R590. Insurance, Administration.****R590-93. Replacement of Life Insurance and Annuities.****R590-93-1. Authority.**

This rule is promulgated pursuant to Subsection 31A-2-201(3)(a) wherein the commissioner may make rules to implement the provisions of Title 31A, ~~and pursuant to~~ Subsection 31A-23a-402(8), which allows the commissioner to define methods of competition and acts and practices found to be unfair or deceptive, and Subsection 31A-22-429, which gives the commissioner authority to require statements

regarding existing insurance and adopt the notice regarding replacement.

**R590-93-2. Purpose and Scope.**

(1) The purpose of this rule is:

(a) to regulate the activities of insurers and producers with respect to the replacement of existing life insurance and annuities; and

(b) to protect the interests of life insurance and annuity purchasers by establishing minimum standards of conduct to be observed in replacement or financed purchase transactions. It will:

(i) assure that purchasers receive information with which a decision can be made in the purchaser's own best interest;

(ii) reduce the opportunity for misrepresentation and incomplete disclosure; and

(iii) establish penalties for failure to comply with requirements of Section 31A-22-429 and this rule.

(2) This rule applies to all insurers and producers doing life insurance and annuity transactions in this state.

(3) Unless otherwise specifically included, this rule shall not apply to transactions involving:

(a) credit life insurance;

(b) group life insurance or group annuities where there is no direct solicitation of individuals by an insurance producer. Direct solicitation shall not include any group meeting held by an insurance producer solely for the purpose of educating or enrolling individuals or, when initiated by an individual member of the group, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual. Group life insurance or group annuity certificates marketed through direct response solicitation shall be subject to the provisions of Section R590-93-8;

(c) group life insurance and annuities used to fund prearranged funeral contracts;

(d) an application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner or when a term conversion privilege is exercised among corporate affiliates;

(e) proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company;

(f)(i) policies or contracts used to fund:

(A) an employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

(B) a plan described by Sections 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer;

(C) a governmental or church plan defined in Section 414, a governmental or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the Internal Revenue Code; or

(D) a nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

(ii) Notwithstanding Subsection (i), this rule shall apply to policies or contracts used to fund any plan or arrangement that is funded solely by contributions an employee elects to make, whether on a pre-tax or after-tax basis, and where the insurer has been notified that plan participants may choose from among two or more insurers and there is a direct solicitation of an individual employee by an insurance

producer for the purchase of a contract or policy. As used in this subsection, direct solicitation shall not include any group meeting held by an insurance producer solely for the purpose of educating individuals about the plan or arrangement or enrolling individuals in the plan or arrangement or, when initiated by an individual employee, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual employee;

(g) where new coverage is provided under a life insurance policy or contract and the cost is borne wholly by the insured's employer or by an association of which the insured is a member;

(h) existing life insurance that is a non-convertible term life insurance policy that will expire in five years or less and cannot be renewed;

(i) immediate annuities that are purchased with proceeds from an existing contract. Immediate annuities purchased with proceeds from an existing policy are not exempted from the requirements of this rule; or

(j) structured settlements.

(4) Registered contracts shall be exempt from the requirements of Subsections R590-93-6(1)(c) and R590-93-7(2) with respect to the provision of illustrations or policy summaries; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required instead.

**R590-93-3. Definitions.**

In addition to the definitions of Section 31A-1-301, the following definitions shall apply for the purposes of this rule.

(1) "Direct-response solicitation" means a solicitation through a sponsoring or endorsing entity or individually solely through mails, telephone, the Internet or other mass communication media.

(2) "Existing insurer" means the insurance company whose policy or contract is or will be changed or affected in a manner described within the definition of "replacement."

(3) "Existing policy or contract" means an individual life insurance policy, herein referred to as policy, or annuity contract, herein referred to as contract, in force, including a policy under a binding or conditional receipt or a policy or contract that is within an unconditional refund period.

(4) "Financed purchase" means the purchase of a new policy involving the actual or intended use of funds obtained by the withdrawal or surrender of, or by borrowing from values of an existing policy to pay all or part of any premium due on the new policy. For purposes of a regulatory review of an individual transaction only, if a withdrawal, surrender or borrowing involving the policy values of an existing policy is used to pay premiums on a new policy owned by the same policyholder and issued by the same company within four months before or 13 months after the effective date of the new policy, it will be deemed prima facie evidence of the policyholder's intent to finance the purchase of the new policy with existing policy values. This prima facie standard is not intended to increase or decrease the monitoring obligations contained in Subsection R590-93-5(1)(e). A financed purchase is a replacement.

(5) "Illustration" means a presentation or depiction that includes non-guaranteed elements of a policy of life insurance over a period of years as defined in R590-177, Life Insurance Illustrations Rule.

(6) "Notice" means Appendix A and Appendix C, Important Notice: Replacement of Life Insurance or Annuities, and Appendix B, Notice Regarding Replacement, from the National Association of

Insurance Commissioners, dated 2006 and which are incorporated herein by reference. The notice is to be made available by the replacing insurer and must be imprinted with the name, address, and telephone number of the replacing insurer.

(7)(a) "Policy summary" for policies or contracts other than universal life policies, means a written statement regarding a policy or contract which shall contain to the extent applicable, but need not be limited to, the following information:

- (i) current death benefit;
- (ii) annual contract premium;
- (iii) current cash surrender value;
- (iv) current dividend;
- (v) application of current dividend; and
- (vi) amount of outstanding loan.

(b) "Policy summary" for universal life policies, means a written statement that shall contain at least the following information:

- (i) the beginning and end date of the current report period;
- (ii) the policy value at the end of the previous report period and at the end of the current report period;

(iii) the total amounts that have been credited or debited to the policy value during the current report period, identifying each by type, e.g., interest, mortality, expense and riders;

(iv) the current death benefit at the end of the current report period on each life covered by the policy;

(v) the net cash surrender value of the policy as of the end of the current report period; and

(vi) the amount of outstanding loans, if any, as of the end of the current report period.

(8) "Replacing insurer" means the insurance company that issues or proposes to issue a new policy or contract that replaces an existing policy or contract or is a financed purchase.

(9) "Registered contract" means a variable annuity contract or variable life insurance policy subject to the prospectus delivery requirements of the Securities Act of 1933.

(10) "Replacement" means a transaction in which a new policy or contract is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer if there is no producer, that by reason of the transaction, an existing policy or contract has been or is to be:

(a) lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated;

(b) converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;

(c) amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;

(d) reissued with any reduction in cash value; or

(e) used in a financed purchase.

(11) "Sales material" means a sales illustration and any other written, printed or electronically presented information created, or completed or provided by the company or producer and used in the presentation to the policy or contract holder related to the policy or contract purchased.

**R590-93-4. Duties of Producers.**

A producer shall comply with Section 31A-22-429.

~~[(1) In connection with or as part of each application for insurance, the applicant shall complete and the producer shall submit~~

~~to the insurer the statements required in Subsection R590-93-5(3) as to:~~

~~\_\_\_\_\_ (a) whether the applicant has existing policies or contracts; and~~

~~\_\_\_\_\_ (b) whether the proposed insurance will replace, discontinue, or change an existing policy or contract.~~

~~\_\_\_\_\_ (2) If the applicant answered "yes" to the question regarding replacement, discontinuance, or change of an existing policy or contract referred to in Subsection (1), the producer shall present to the applicant, not later than at the time of taking the application, the Notice regarding replacements in the form as described in Appendix A or other substantially similar document filed with the commissioner. However, a filing shall not be required when amendments to the Notice are limited to the omission of references not applicable to the product being sold or replaced. The Notice shall be signed by both the applicant and the producer attesting that the Notice has been read aloud by the producer or that the applicant did not wish the Notice to be read aloud, in which case the producer need not have read the Notice aloud, and left with the applicant. With respect to an electronically completed application and Notice, the producer is not required to leave a copy of the electronically completed Notice with the applicant.~~

~~\_\_\_\_\_ (3) The Notice shall list each existing policy or contract contemplated to be replaced, properly identified by name of insurer, the insured or annuitant, and policy or contract number if available; and shall include a statement as to whether each policy or contract will be replaced or whether a policy will be used as a source of financing for the new policy or contract. If a policy or contract number has not been issued by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.~~

~~\_\_\_\_\_ (4) In connection with a replacement transaction the producer shall leave with the applicant at the time an application for a new policy or contract is completed the original or a copy of all sales material. With respect to electronically presented sales material, it shall be provided to the policy or contract holder in printed form no later than at the time of policy or contract delivery.~~

~~\_\_\_\_\_ (5) Except as provided in Subsection R590-93-6(3), in connection with a replacement transaction the producer shall submit to the insurer to which an application for a policy or contract is presented, a copy of each document required by this section, a statement identifying any preprinted or electronically presented company approved sales materials used, and copies of any individualized sales materials, including any illustrations related to the specific policy or contract purchased.~~

**R590-93-5. Duties of Insurers that Use Producers.**

Each insurer shall:

(1) maintain a system of supervision and control to insure compliance with the requirements of Section 31A-22-429 and this rule that shall include at least the following:

(a) inform its producers of the requirements of Section 31A-22-429 and this rule and incorporate the requirements ~~[of this rule]~~ into all relevant producer training manuals prepared by the insurer;

(b) provide to each producer a written statement of the company's position with respect to the acceptability of replacements providing guidance to its producer as to the appropriateness of these transactions;

(c) a system to review the appropriateness of each replacement transaction that the producer does not indicate is in accord with Subsection (b) above;

(d) procedures to confirm that the requirements of Section 31A-22-429 and this rule have been met;

(e) procedures to detect transactions that are replacements of existing policies or contracts by the existing insurer, but that have not been reported as such by the applicant or producer. Compliance with this rule may include, but shall not be limited to, systematic customer surveys, interviews, confirmation letters, or programs of internal monitoring;

(2) have the capacity to monitor each producer's life insurance policy and annuity contract replacements for that insurer, and shall produce, upon request, and make such records available to the department. The capacity to monitor shall include the ability to produce records for each producer's:

(a) life replacements, including financed purchases, as a percentage of the producer's total annual sales for life insurance;

(b) number of lapses of policies by the producer as a percentage of the producer's total annual sales for life insurance;

(c) annuity contract replacements as a percentage of the producer's total annual annuity contract sales;

(d) number of transactions that are unreported replacements of existing policies or contracts by the existing insurer detected by the company's monitoring system as required by Subsection R590-93-5(1) (e); and

(e) replacements, indexed by replacing producer and existing insurer;

(3) require with or as a part of each application for life insurance or an annuity a signed statement by the applicant as to:

(a) whether the applicant has existing policies or contracts; and

(b) whether the proposed life insurance or annuity will replace, discontinue, or change an existing policy or contract;

(4) require with each application for life insurance or annuity that indicates the replacement, discontinuance, or change of an existing policy or contract, a completed [N]notice regarding replacements as contained in Appendix A or Appendix C;

(5) when the applicant has existing policies or contracts, each insurer shall be able to produce copies of any sales material required by Subsection [R590-93-4]31A-22-429(5), the basic illustration and any supplemental illustrations related to the specific policy or contract that is purchased, and the [producer's and applicant's] signed statement[s] with respect to financing and replacement for at least five years after the termination or expiration of the proposed policy or contract;

(6) ascertain that the sales material and illustrations required by Subsection [R590-93-4]31A-22-429(5) [~~of this rule meet the requirements of this rule and~~] are complete and accurate for the proposed policy or contract;

(7) if an application does not meet the requirements of this rule, notify the producer and applicant and fulfill the outstanding requirements; and

(8) maintain records in any media or by any process that accurately reproduces the actual document.

#### **R590-93-6. Duties of Replacing Insurers that Use Producers.**

(1) Where a replacement is involved in the transaction, the replacing insurer shall:

(a) verify that the required forms are received and are in compliance with this rule;

(b) with respect to an electronically completed [N]notice, the replacing insurer shall send a printed copy of the electronically executed [N]notice to the applicant within five business days of the date the [N]notice is received by the company;

(c) notify any other existing insurer that may be affected by the proposed replacement within five business days of receipt of a completed application indicating replacement or when the replacement is identified if not indicated on the application, and mail a copy of the available illustration or the policy summary for the proposed policy or disclosure document for the proposed contract within five business days of a request from an existing insurer;

(d) be able to produce copies of the [notification]notice regarding replacement required in Subsection [R590-93-4]31A-22-429(2), indexed by producer, for at least five years or until the next regular examination by the insurance department of a company's state of domicile, whichever is later; and

(e) provide to the policy or contract holder notice of the right to return the policy or contract within 30 calendar days of the delivery of the contract and receive an unconditional full refund of all premiums or considerations paid on it; such notice may be included in Appendix A or C. This subsection does not preempt the requirements of 31A-22-423.

(2) In transactions where the replacing insurer and the existing insurer are the same or subsidiaries or affiliates under common ownership or control, allow credit for the period of time that has elapsed under the replaced policy's or contract's incontestability and suicide periods up to the face amount of the existing policy or contract. With regard to financed purchases the credit may be limited to the amount the face amount of the existing policy is reduced by the use of existing policy values to fund the new policy or contract.

(3) If an insurer prohibits the use of sales material other than that approved by the company, as an alternative to the requirements made of an insurer pursuant to Subsection [R590-93-4]31A-22-429(5) with regard to sales materials, the insurer may:

(a) require with each application a statement signed by the producer that:

(i) represents that the producer used only company-approved sales material; and

(ii) states that copies of all sales material were left with the applicant in accordance with Subsection [R590-93-4]31A-22-429(4); and

(b) within ten business days of the issuance of the policy or contract:

(i) notify the applicant by sending a letter or by verbal communication with the applicant by a person whose duties are separate from the marketing area of the insurer, that the producer has represented that copies of all sales material have been left with the applicant in accordance with Subsection [R590-93-4]31A-22-429(4);

(ii) provide the applicant with a toll free number to contact company personnel involved in the compliance function if such is not the case; and

(iii) stress the importance of retaining copies of the sales material for future reference; and

(c) be able to produce a copy of the letter or other verification in the policy file for at least five years after the termination or expiration of the policy or contract.

**R590-93-7. Duties of the Existing Insurer.**

Where a replacement is involved in the transaction, the existing insurer shall:

(1) retain and be able to produce all replacement notifications received, indexed by replacing insurer, for at least five years or until the conclusion of the next regular examination conducted by the insurance department of its state of domicile, whichever is later;

(2) within 5 business days of receiving a replacement ~~notification~~ notice, send a letter to the policy or contract holder of the right to receive information regarding the existing policy or contract values including, if available, an in force illustration or policy summary if an in force illustration cannot be produced. The policy or contract information shall be provided within five business days of receipt of the request from the policy or contract holder; and

(3) upon receipt of a request to borrow, surrender or withdraw any policy values, send a notice, advising the policy holder that the release of policy values may affect the guaranteed elements, non-guaranteed elements, face amount or surrender value of the policy from which the values are released. The notice shall be sent directly to the policyholder if the check is sent to anyone other than the policyholder. In the case of consecutive automatic premium loans, the insurer is only required to send the notice at the time of the first loan.

**R590-93-8. Duties of Insurers with Respect to Direct Response Solicitations.**

(1) In the case of an application that is initiated as a result of a direct response solicitation, the insurer shall require, with or as part of each completed application for a policy or contract, a statement asking whether the applicant, by applying for the proposed policy or contract, intends to replace, discontinue or change an existing policy or contract. If the applicant indicates a replacement or change is not intended or if the applicant fails to respond to the statement, the insurer shall send the applicant, with the policy or contract, the [N]notice regarding replacement in Appendix B, or other substantially similar form approved by the commissioner.

(2) If the insurer has proposed the replacement or if the applicant indicates a replacement is intended and the insurer continues with the replacement, the insurer shall:

(a) provide to applicants or prospective applicants with the policy or contract a [N]notice, as described in Appendix C, or other substantially similar document filed with the commissioner. In these instances the insurer may delete the references to the producer, including the producer's signature, and references not applicable to the product being sold or replaced, without having to file the document with the commissioner. The insurer's obligation to obtain the applicant's signature shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the [N]notice referred to in this subsection. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed [N]notice referred to in this section; and

(b) comply with the requirements of Subsection R590-93-6(1)(c), if the applicant furnishes the names of the existing insurers, and the requirements of Subsections R590-93-6(1)(d), R590-93-6(1)(e), and R590-93-6(2).

**R590-93-9. Violations and Penalties.**

(1) Any failure to comply with this rule shall be considered a violation of 31A-23a-402. Examples of violations include:

(a) any deceptive or misleading information set forth in sales material;

(b) failing to ask the applicant in completing the application the pertinent questions regarding existing policies or contracts and whether the proposed insurance will replace, discontinue, or change an existing policy or contract;

(c) the intentional incorrect recording of an answer;

(d) advising an applicant to respond negatively to any question regarding replacement in order to prevent notice to the existing insurer;

(e) advising a policy or contract holder to write directly to the company in such a way as to attempt to obscure the identity of the replacing producer or company; or

(f) advising a policy or contract holder to obtain policy values from an existing policy or contract with the intent to indirectly replace the policy or contract without complying with the requirements of this rule.

(2) Policy and contract holders have the right to replace existing life insurance policies or annuity contracts after indicating in or as a part of applications for new coverage that replacement is not their intention; however, patterns of such action by policy or contract holders of the same producer shall be deemed prima facie evidence of the producer's knowledge that replacement was intended in connection with the identified transactions, and these patterns of action shall be deemed prima facie evidence of the producer's intent to violate this rule.

(3) Where it is determined that the requirements of this rule have not been met, the replacing insurer shall provide to the policy holder an in force illustration if available or a policy summary for the replacement policy or disclosure document for the replacement contract and the appropriate [N]notice regarding replacements in Appendix A or C.

(4) Violations of this rule shall subject the violators to penalties that may include the revocation or suspension of a producer's or company's license, monetary fines and the forfeiture of any commissions or compensation paid to a producer as a result of the transaction in connection with which the violations occurred. In addition, where the commissioner has determined that the violations were material to the sale, the insurer may be required to make restitution, restore policy or contract values and pay interest at the legal rate as provided in Title 15 of the Utah Code on the amount refunded in cash.

**R590-93-10. Relationship to Other Statutes and Rules.**

If any portion of this rule is inconsistent with any provision of any statute or other rule dealing with life insurance or annuity marketing practices or disclosure, said inconsistent portion shall be interpreted so as to provide the greatest information or protection to the policyholder.

**R590-93-11. Severability.**

If any section, term, or provision of this rule shall be adjudged invalid for any reason, such judgment shall not affect, impair or invalidate any other section, term, or provision of this rule and the remaining sections, terms, and provision shall be and remain in full force.

**R590-93-12. Enforcement Date.**

The commissioner will begin enforcing the [revised] provisions of this revised rule [45 calendar days after] as of the effective date of the changes.

**KEY: life insurance, annuity replacement**

**Date of Enactment or Last Substantive Amendment: [January 10, 2011] 2013**

**Notice of Continuation: April 15, 2009**

**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-23a-402; 31A-22-429**

Public Service Commission,  
Administration  
**R746-200**  
Residential Utility Service Rules for  
Electric, Gas, Water, and Sewer  
Utilities

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 37508

FILED: 04/09/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** In connection with a recent five-year review of Rule R746-200, interested parties indicated that the rule provisions in Section R746-200-7 related to termination of utility service in situations involving medical issues should be updated and clarified. Sections R746-200-3 and R746-200-4 are included to correct cross-references in connection with the change to Section R746-200-7.

**SUMMARY OF THE RULE OR CHANGE:** The rule change: 1) adds definitions; 2) codifies some current practice; 3) clarifies a distinction between situations involving a "serious illness or infirmity" and those involving "life-supporting equipment;" and 4) outlines the procedures and restrictions on termination of utility service in both situations.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 54-4-1 and Section 54-4-7 and Section 54-7-25 and Section 54-7-9

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** None--This rule filing clarifies and codifies current practice, and should not impact the state budget.

◆ **LOCAL GOVERNMENTS:** None--This rule filing clarifies and codifies current practice, and should not impact the budget of local government.

◆ **SMALL BUSINESSES:** None--This rule filing clarifies and codifies current practice, and should not impact the budget of small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule filing does not create any new procedures but instead codifies existing practice.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** None--The substantive requirements of this rule filing were established in 1981 through an administrative order by the Public Service Commission. This filing clarifies the practice that has developed and been followed by the related parties since then.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Because this filing clarifies requirements and practices that have been in place since 1981, there are no estimated fiscal impacts. The clarity provided by this filing could decrease compliance costs to utilities or provide intangible benefits to utility customers with medical issues.

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

PUBLIC SERVICE COMMISSION

ADMINISTRATION

HEBER M WELLS BLDG

160 E 300 S

SALT LAKE CITY, UT 84111-2316

or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ David Clark by phone at 801-530-6708, by FAX at 801-530-6796, or by Internet E-mail at [drexclark@utah.gov](mailto:drexclark@utah.gov)

◆ Sheri Bintz by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at [sbintz@utah.gov](mailto:sbintz@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2013

AUTHORIZED BY: David Clark, Legal Counsel

**R746. Public Service Commission, Administration.**

**R746-200. Residential Utility Service Rules for Electric, Gas, Water, and Sewer Utilities.**

**R746-200-3. Deposits, Eligibility for Service, and Shared Meter or Appliance.**

A. Deposits and Guarantees --

1. Each utility shall submit security deposit policies and procedures to the Commission for its approval before the implementation and use of those policies and procedures. Each utility shall submit third-party guarantor policies and procedures to the Commission.

2. Each utility collecting security deposits shall pay interest thereon at a rate as established by the Commission. For electric cooperatives and electric service districts, interest rates shall be determined by the governing board of directors of the cooperative or district and filed with the Commission and shall be deemed approved by the Commission unless ten percent or more of the customers file a request for agency action requesting an investigation and hearing. The deposit paid, plus accrued interest, is eligible for return to the customer after the customer has paid the bill on time for 12 consecutive months.

3. A residential customer shall have the right to pay a security deposit in at least three equal monthly installments if the first installment is paid when the deposit is required.

**B. Eligibility for Service --**

1. Residential utility service is to be conditioned upon payment of deposits, where required, and of any outstanding debts for past utility service which are owed by the applicant to that public utility, subject to Subsections R746-200-3(B)(2), and R746-200-7[(B)(1)(A)](C)(1)(f), Reasons for Termination. Service may be denied when unsafe conditions exist, when the applicant has furnished false information to get utility service, or when the customer has tampered with utility-owned equipment, such as meters and lines. An applicant is ineligible for service if at the time of application, the applicant is cohabiting with a delinquent account holder, whose utility service was previously disconnected for non-payment, and the applicant and delinquent account holder also cohabited while the delinquent account holder received the utility's service, whether the service was received at the applicants present address or another address.

2. When an applicant cannot pay an outstanding debt in full, residential utility service shall be provided upon execution of a written, deferred payment agreement as set forth in Section R746-200-5.

**C. Shared Meter or Appliance -** In rental property where one meter provides service to more than one unit or where appliances provide service to more than one unit or to other occupants at the premises, and this situation is known to the utility, the utility will recommend that service be in the property owner's name and the property owner be responsible for the service. However, a qualifying applicant will be allowed to put service in their own name provided the applicant acknowledges that the request for services is entered into willingly and he has knowledge of the account responsibility.

**R746-200-4. Account Billing.**

**A. Billing Cycle --** Each gas, electric, sewer and water utility shall use a billing cycle that has an interval between regular periodic billing statements of not greater than two months. This section applies to permanent continuous service customers, not to seasonal customers.

**B. Estimated Billing --**

1. A gas, electric, sewer or water public utility using an estimated billing procedure shall try to make an actual meter reading at least once in a two-month period and give a bill for the appropriate charge determined from that reading. When weather conditions prevent regular meter readings, or when customers are served on a seasonal tariff, the utility will make arrangements with the customer to get meter reads at acceptable intervals.

2. If a meter reader cannot gain access to a meter to make an actual reading, the public utility shall take appropriate additional measures in an effort to get an actual meter reading. These measures shall include, but are not limited to, scheduling of a meter reading at other than normal business hours, making an appointment for meter

reading, or providing a prepaid postal card with a notice of instruction upon which an account holder may record a meter reading. If after two regular route visits, access has not been achieved, the utility will notify the customer that he must make arrangements to have the meter read as a condition of continuing service.

3. If, after compliance with Subsection R746-200-4(B)(2), a public utility cannot make an actual meter reading it may give an estimated bill for the current billing cycle in accordance with Subsection R746-200-7[(B)(1)(A)](C)(1)(f), Reasons for Termination.

**C. Periodic Billing Statement --** Except when a residential utility service account is considered uncollectible or when collection or termination procedures have been started, a public utility shall mail or deliver an accurate bill to the account holder for each billing cycle at the end of which there is an outstanding debit balance for current service, a statement which the account holder may keep, setting forth each of the following disclosures to the extent applicable:

1. the outstanding balance in the account at the beginning of the current billing cycle using a term such as "previous balance";

2. the amount of charges debited to the account during the current billing cycle using a term such as "current service";

3. the amount of payments made to the account during the current billing cycle using a term such as "payments";

4. the amount of credits other than payments to the account during the current billing cycle using a term such as "credits";

5. the amount of late payment charges debited to the account during the current billing cycle using a term such as "late charge";

6. the closing date of the current billing cycle and the outstanding balance in the account on that date using a term such as "amount due";

7. a listing of the statement due date by which payment of the new balance must be made to avoid assessment of a late charge;

8. a statement that a late charge, expressed as an annual percentage rate and a periodic rate, may be assessed against the account for late payment;

9. the following notice: "If you have any questions about this bill, please call the Company."

**D. Late Charge --**

1. Commencing not sooner than the end of the first billing cycle after the statement due date, a late charge of a periodic rate as established by the Commission may be assessed against an unpaid balance in excess of new charges debited to the account during the current billing cycle. The Commission may change the rate of interest.

2. No other charge, whether described as a finance charge, service charge, discount, net or gross charge may be applied to an account for failure to pay an outstanding bill by the statement due date. This section does not apply to reconnection charges or return check service charges.

**E. Statement Due Date --** An account holder shall have not less than 20 days from the date the current bill was prepared to pay the new balance, which date shall be the statement due date.

**F. Disputed Bill --**

1. In disputing a periodic billing statement, an account holder shall first try to resolve the issue by discussion with the public utility's collections personnel.

2. When an account holder has proceeded pursuant to Subsection R746-200-4(F)(1), the public utility's collections personnel shall investigate the disputed issue and shall try to resolve that issue by negotiation.

3. If the negotiation does not resolve the dispute, the account holder may obtain informal and formal review of the dispute as set forth in Section R746-200-8, Informal Review, and R746-200-9, Formal Review.

4. While an account holder is proceeding with either informal or formal review of a dispute, no termination of service shall be permitted if amounts not disputed are paid when due.

G. Unpaid Bills - Utilities transferring unpaid bills from inactive or past accounts to active or current accounts shall follow these limitations:

1. A utility company may only transfer bills between similar classes of service, such as residential to residential, not commercial to residential.

2. Unpaid amounts for billing cycles older than four years before the time of transfer cannot be transferred to an active or current account.

3. The customer shall be provided with an explanation of the transferred amounts from earlier billing cycles and informed of the customer's ability to dispute the transferred amount.

4. The customer may dispute the transferred amount pursuant to R746-200-4(F).

#### **R746-200-7. Termination of Service.**

A. Definitions. As used in this section (R746-200-7):

1. "Licensed medical provider" means a medical provider:

a. who holds a current and active medical license under Utah Code Title 58; and

b. whose scope of practice authorizes the medical provider to diagnose the condition described by the medical provider under this rule.

2. "Life-supporting equipment" means life-supporting medical equipment:

a. with normal operation that requires continuation of public utility service; and

b. used by an individual who would require assistance from medical personnel to sustain life if the life supporting equipment ceased normal operations.

3. "Life-supporting equipment statement" means a written statement:

a. signed by the account holder or resident who utilizes life-supporting equipment; and

b. including:

i. a description of the medical need of the account holder or resident who utilizes life-supporting equipment;

ii. the account holder's name and address; and

iii. the name and contact information of the licensed medical provider for the resident who utilizes life-supporting equipment.

4. "Serious illness or infirmity statement" means a written statement:

a. signed by a licensed medical provider;

b. written on:

i. a form obtained from the public utility; or

ii. the licensed medical provider's letterhead stationary;

c. legibly describing:

i. a diagnosed medical condition under which termination of utility service will injure the person's health or aggravate the person's illness; and

ii. the anticipated duration of the diagnosed medical condition.

B. Delinquent Account --

1. A residential utility service bill which has remained unpaid beyond the statement due date is a delinquent account.

2. When an account is a delinquent account, a public utility, before termination of service, shall issue a written late notice to inform the account holder of the delinquent status. A late notice or reminder notice must include the following information:

a. A statement that the account is a delinquent account and should be paid promptly;

b. A statement that the account holder should communicate with the public utility's collection department, by calling the company, if he has a question concerning the account;

c. A statement of the delinquent account balance, using a term such as "delinquent account balance."

3. When the account holder responds to a late notice or reminder notice the public utility's collections personnel shall investigate disputed issues and shall try to resolve the issues by negotiation. During this investigation and negotiation no other action shall be taken to disconnect the residential utility service if the account holder pays the undisputed portion of the account subject to the utility's right to terminate utility service pursuant to R746-200-7(F), Termination of Service Without Notice.

4. A copy of the "Statement of Customer Rights and Responsibilities" referred to in Subsection R746-200-1(G) of these rules shall be issued to the account holder with the first notice of impending service disconnection.

[B]C. Reasons for Termination of Service --

1. Residential utility service may be terminated for the following reasons:

a. Nonpayment of a delinquent account;

b. Nonpayment of a deposit when required;

c. Failure to comply with the terms of a deferred payment agreement or Commission order;

d. Unauthorized use of, or diversion of, residential utility service or tampering with wires, pipes, meters, or other equipment;

e. Subterfuge or deliberately furnishing false information; or

f. Failure to provide access to meter during the regular route visit to the premises following proper notification and opportunity to make arrangements in accordance with R746-200-4(B), Estimated Billing, Subsection (2).

2. The following shall be insufficient grounds for termination of service:

a. A delinquent account, accrued before a divorce or separate maintenance action in the courts, in the name of a former spouse, cannot be the basis for termination of the current account holder's service;

b. Cohabitation of a current account holder with a delinquent account holder whose utility service was previously terminated for non-payment, unless the current and delinquent account holders also cohabited while the delinquent account holder received the utility's service, whether the service was received at the current account holder's present address or another address;

c. When the delinquent account balance is less than \$25.00, unless no payment has been made for two months;

d. Failure to pay an amount in bona fide dispute before the Commission;



e. Payment delinquency for third party services billed by the regulated utility company, unless prior approval is obtained from the Commission.

[C]D. Restrictions upon Termination of Service [During Serious Illness]for Medical Reasons --

1. Serious Illness or Infirmary. If a public utility receives a residential gas, water, sewer and electric utility service may not be terminated and will be restored if terminated when the termination of service will cause or aggravate a serious illness or infirmity of a person living in the residence. Utility service will be restored or continue for one month or less as stated in Subsection R746-200-7(C)(2).

2. Upon receipt of a serious illness or infirmity statement, signed by an osteopathic physician, a physician, a surgeon, a naturopathic physician, a physician assistant, a nurse, or a certified nurse midwife, as the providers are defined and licensed under Title 58 of the Utah Code, either on a form obtained from the utility or on the health care provider's letterhead stationery, which statement legibly identifies the health infirmity or potential health hazard, and how termination of service will injure the person's health or aggravate their illness,;

a. the public utility will shall continue or restore residential utility service for the period set forth in the statement or one month, whichever is less;

b. the Commission may, upon receipt of a person whose health is threatened or illness aggravated may petition from the account holder of the residence, or the person whose health would be threatened or illness aggravated by termination of utility service, grant the Commission for an extension of time that normally will not exceed one additional month; and

c. the account holder is liable for the cost of residential utility service during the period of continued service.

#### 2. Life-Supporting Equipment.

a. Within two business days after receiving a life-supporting equipment statement, a public utility shall submit to the licensed medical provider identified in the life-supporting equipment statement a request for information indicating:

i. the health infirmity and expected duration;

ii. identification of the life-support equipment that requires the utility's service; and

iii. an explanation of how termination of utility service will injure the person's health or aggravate the person's illness.

b. After receiving a response from the licensed medical provider with the required information, the public utility:

i. shall mark and identify applicable meter boxes where the life-supporting equipment is used;

ii. may not terminate service to the residence unless the public utility has obtained prior approval from the Commission; and

iii. may request annual verification from the licensed medical provider of the life-supporting equipment.

c. A public utility may petition the Commission for authorization to terminate service on an account where the public utility has received a life-supporting equipment statement and the related medical provider verification:

i. if the account is in default;

ii. if the utility has:

AA. followed R746-200-5 on offering a deferred payment agreement; or

BB. if R746-200-5 does not apply, allowed the customer one month to enter into a deferred payment agreement that may last up to 12 months; and

iii. by filing its petition with the Commission and providing a copy to the Division.

d. A petition for authorization to terminate service shall contain:

i. the public utility's written request to the Commission to terminate service;

ii. the life-supporting equipment statement;

iii. the information provided to the public utility by the licensed medical provider;

iv. a copy of a letter sent to the account holder and, if appropriate, to a third party, notifying the account holder of the account holder's right to file a protest with the Commission within 10 days; and

v. an affidavit verifying the public utility provided the account holder and, if appropriate, a third party, the information required by this rule.

e. Within two business days after receiving a petition for authorization to terminate service, the Division shall:

i. notify the account holder by regular and certified mail that the utility is requesting authorization from the Commission to terminate service; and

ii. instruct the account holder to contact the utility for further information.

f. After receiving a petition for authorization to terminate service, the Commission may:

i. schedule an expedited hearing if a protest is received within 10 days; or

ii. issue an order authorizing termination of service if the requirements of this rule have been satisfied.

g. If a public utility receives authorization to terminate service, the public utility shall provide a 48 hour notice of termination to the customer consistent with R746-200-7.G.2.

h. The account holder is liable for the cost of residential utility service during all proceedings related to life-supporting equipment.

3. During the period of continued service, the account holder is liable for the cost of residential utility service. No action to terminate the service may be undertaken, however, until the end of the period of continued service.

D. Restrictions upon Termination of Service to Residencees with Life-Supporting Equipment -- No public utility shall terminate service to a residence in which the account holder or a resident is known by the utility to be using an iron lung, respirator, dialysis machine, or other life-supporting equipment whose normal operation requires continuation of the utility's service, without specific prior approval by the Commission. Account holders eligible for this protection can get it by filing a written notice with the utility, which notice form is to be obtained from the utility, signed and supported by a statement consistent with that required in part C.2. above, and specifically identifying the life-support equipment that requires the utility's service. Thereupon, a public utility shall mark and identify applicable meter boxes when this equipment is used.

E. Payments [for HEAT,] from the Home Energy Assistance Target (HEAT)[,] Program -- [The Commission approves the provision of the Department of Human Service's standard contract with public utility suppliers in Utah that suppliers will]Suppliers may not

discontinue utility service to a low-income household for at least 30 days after ~~[receipt of]~~receiving utility payment or verification of utility payment from the ~~[state program]~~HEAT Program on behalf of the low-income household.

F. Termination of Service Without Notice -- Any provision contained in these rules notwithstanding, a public utility may terminate residential utility service without notice when, in its judgment, a clear emergency or serious health or safety hazard exists for so long as the conditions exist, or when there is unauthorized use or diversion of residential utility service or tampering with wires, pipes, meters, or other equipment owned by the utility. The utility shall immediately try to notify the customer of the termination of service and the reasons therefor.

G. Notice of Proposed Termination of Service --

1. At least 10 calendar days before a proposed termination of residential utility service, a public utility shall give written notice of disconnection for nonpayment to the account holder. The 10-day time period is computed from the date the bill is postmarked. The notice shall be given by first class mail or delivery to the premises and shall contain a summary of the following information:

- a. a Statement of Customer Rights and Responsibilities under existing state law and Commission rules;
- b. the Commission-approved policy on termination of service for that utility;
- c. the availability of deferred payment agreements and sources of possible financial assistance including but not limited to state and federal energy assistance programs;
- d. informal and formal procedures to dispute bills and to appeal adverse decisions, including the Commission's address and telephone number;
- e. specific steps, printed in a conspicuous fashion, that may be taken by the consumer to avoid termination of service;
- f. the date on which payment arrangements must be made to avoid termination of service; and
- g. subject to the provision of Subsection R746-200-1(E), Customer Information, a conspicuous statement, in Spanish, that the notice is a termination of service notice and that the utility has a Spanish edition of its customer information pamphlet and whether it has personnel available during regular business hours to communicate with Spanish-speaking customers.

2. At least 48 hours before termination of service is scheduled, the utility shall make good faith efforts to notify the account holder or an adult member of the household, by mail, by telephone or by a personal visit to the residence. If personal notification has not been made either directly by the utility or by the customer in response to a mailed notice, the utility shall leave a written termination of service notice at the residence. Personal notification, such as a visit to the residence or telephone conversation with the customer, is required only during the winter months, October 1 through March 31. Other months of the year, the mailed 48-hour notice can be the final notice before the termination of service.

If termination of service is not accomplished within 15 business days following the 48-hour notice, the utility company will follow the same procedures for another 48-hour notice.

3. A public utility shall send duplicate copies of 10-day termination of service notices to a third party designated by the account holder and shall make reasonable efforts to personally contact the third party designated by the account holder before termination of service occurs, if the third party resides within its service area. A

utility shall inform its account holders of the third-party notification procedure at the time of application for service and at least once each year.

4. In rental property situations where the tenant is not the account holder and that fact is known to the utility, the utility shall post a notice of proposed termination of service on the premises in a conspicuous place and shall make reasonable efforts to give actual notice to the occupants by personal visits or other appropriate means at least five calendar days before the proposed termination of service. The posted notice shall contain the information listed in Subsection R746-200-7(G)(1). This notice provision applies to residential premises when the account holder has requested termination of service or the account holder has a delinquent bill. If nonpayment is the basis for the termination of service, the utility shall also advise the tenants that they may continue to receive utility service for an additional 30 days by paying the charges due for the 30-day period just past.

H. Termination of Service -- Upon expiration of the notice of proposed termination of service, the public utility may terminate residential utility service. Except for service diversion or for safety considerations, utility service shall not be disconnected between Thursday at 4:00 p.m. and Monday at 9:00 a.m. or on legal holidays recognized by Utah, or other times the utility's business offices are not open for business. Service may be disconnected only between the hours of 9:00 a.m. and 4:00 p.m.

I. Customer-Requested Termination of Service --

1. A customer shall advise a public utility at least three days in advance of the day on which he wants service disconnected to his residence. The public utility shall disconnect the service within four working days of the requested disconnect date. The customer shall not be liable for the services rendered to or at the address or location after the four days, unless access to the meter has been delayed by the customer.

2. A customer who is not an occupant at the residence for which termination of service is requested shall advise the public utility at least 10 days in advance of the day on which he wants service disconnected and sign an affidavit that he is not requesting termination of service as a means of evicting his tenants. Alternatively, the customer may sign an affidavit that there are no occupants at the residence for which termination of service is requested and thereupon the disconnection may occur within four days of the requested disconnection date.

J. Restrictions Upon Termination of Service Practices -- A public utility shall not use termination of service practices other than those set forth in these rules. A utility shall have the right to use or pursue legal methods to ensure collections of obligations due it.

K. Policy Statement Regarding Elderly and Handicapped -- The state recognizes that the elderly and handicapped may be seriously affected by termination of utility service. In addition, the risk of inappropriate termination of service may be greater for the elderly and handicapped due to communication barriers which may exist by reason of age or infirmity. Therefore, this section is specifically intended to prevent inappropriate terminations of service which may be hazardous to these individuals. In particular, Subsection R746-200-7(G), requiring adequate notice of impending terminations of service, including notification to third parties upon the request of the account holder, Subsection R746-200-7(~~E~~)(D)(1), restricting termination of service when the termination of service will cause or aggravate a serious illness or infirmity of a person living in the residence, and Subsection R746-200-7(D)(2), restricting terminations of service to

residences when life-supporting equipment is in use, are intended to meet the special needs of elderly and handicapped persons, as well as those of the public in general.

L. Load Limiter as a Substitute for Termination of Service, Electric Utilities --

1. An electric utility may, but only with the customer's consent, install a load limiter as an alternative to terminating electric service for non-payment of a delinquent account or for failure to comply with the terms of a deferred payment agreement or Commission order. Conditions precedent to the termination of electric service must be met before the installation of a load limiter.

2. Disputes about the level of load limitation are subject to the informal review procedure of Subsection R746-200-8.

3. Electric utilities shall submit load limiter policies and procedures to the Commission for their review before the implementation and use of those policies.

**KEY: public utilities, rules, utility service shutoff**

**Date of Enactment or Last Substantive Amendment: ~~July 25, 2006~~ 2013**

**Notice of Continuation: November 28, 2012**

**Authorizing, and Implemented or Interpreted Law: 54-4-1; 54-4-7; 54-7-9; 54-7-25**

**Workforce Services, Unemployment  
Insurance  
R994-403  
Claim for Benefits**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 37517  
FILED: 04/11/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to mirror language in H.B. 21 passed during the 2013 General Session.

**SUMMARY OF THE RULE OR CHANGE:** This change moves the provision prohibiting foreign travel from the availability section to its own section and mirrors the numbering from H.B. 21 (2013).

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 35A-1-104 and Section 35A-4-403 and Subsection 35A-1-104(4) and Subsection 35A-4-502(1)(b)

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** This is a federally-funded program so there are no costs or savings to the state budget.

♦ **LOCAL GOVERNMENTS:** This is a federally-funded program so there are no costs of savings to local government.

♦ **SMALL BUSINESSES:** This is a federally-funded program so there are no costs of savings to small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no costs or savings to any other persons other than small businesses, businesses, or local government entities as there are no fees associated with this program and it is federally funded.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no costs or savings to any affected persons as there are no fees associated with this program and it is federally funded. These changes will not impact any employer's contribution rate.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. These changes will have no impact on any employer's contribution tax rate.

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

WORKFORCE SERVICES  
UNEMPLOYMENT INSURANCE  
140 E 300 S  
SALT LAKE CITY, UT 84111-2333  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2013

AUTHORIZED BY: Jon Pierpont, Executive Director

**R994. Workforce Services, Unemployment Insurance. R994-403. Claim for Benefits. R994-403-112c. Available.**

(1) General Requirement.

The claimant must be available for full-time work. Any restrictions on availability, such as lack of transportation, domestic problems, school attendance, military obligations, church or civic activities, whether self-imposed or beyond the control of the claimant, lessen the claimant's opportunities to obtain suitable full-time work.

(2) Activities Which Affect Availability.

It is not the intent of the act to subsidize activities which interfere with immediate reemployment. A claimant is not considered available for work if the claimant is involved in any

activity which cannot be immediately abandoned or interrupted so that the claimant can seek and accept full-time work.

(a) Activities Which May Result in a Denial of Benefits.

For purposes of establishing weekly eligibility for benefits, a claimant who is engaged in an activity for more than half the normal workweek that would prevent the claimant from working, is presumed to be unavailable and therefore ineligible for benefits. The normal workweek means the normal workweek in the claimant's occupation. This presumption can be overcome by a showing that the activity did not preclude the immediate acceptance of full-time work, referrals to work, contacts from the Department, or an active search for work. When a claimant is away from his or her residence but has made arrangements to be contacted and can return quickly enough to respond to any opportunity for work, the presumption of unavailability may be overcome. The conclusion of unavailability can also be overcome in the following circumstances:

~~[(i) Travel Which is Necessary to Seek Work.~~

~~(A) Benefits will not be denied if the claimant is required to travel to seek, apply for, or accept work within the United States or in a foreign country where the claimant has authorization to work and where there is a reciprocal agreement. The trip itself must be for the purpose of obtaining work. There is a rebuttable presumption that the claimant is not available for work when the trip is extended to accommodate the claimant's personal needs or interests, and the extension is for more than one-half of the workweek.~~

~~(B) Unemployment benefits cannot be paid to a claimant located in a foreign country unless the claimant has authorization to work there and there is a reciprocal agreement concerning the payment of unemployment benefits with that foreign country.~~

~~(C) Unemployment benefits are intended, in part, to stimulate the economy of Utah and the United States and thus are expected to be spent in this country. A claimant who travels to a foreign country must report to the Department that he or she is out of the country, even if it is for a temporary purpose and regardless of whether the claimant intends to return to the United States if work becomes available. Failure to inform the Department will result in a fraud overpayment for the weeks benefits were paid while the claimant was in a foreign country. The claimant may be eligible if the travel is to Canada but must notify the Department of that travel. Canada is the only country with which Utah has a reciprocal agreement. If the claimant travels to, but is not eligible to work in, Canada and fails to notify the Department of the travel, it will result in a fraud overpayment for the weeks benefits were paid while the claimant was in Canada.~~

~~]~~ (i[i]) Definite Offer of Work or Recall.

If the claimant has accepted a definite offer of full-time employment or has a date of recall to begin within three weeks, the claimant does not have to demonstrate further availability except as provided in subparagraphs (B) and (C) of this section and is not required to seek other work. Because the statute requires that a claimant be able to work, if a claimant is unable to work for more than one-half of any week due to illness or hospitalization, benefits will be denied.

(ii[i]) Jury Duty or Court Attendance.

Jury duty or court attendance is a public duty required by law and a claimant will not be denied benefits if he or she is unavailable because of a lawfully issued summons to appear as a witness or to serve on a jury unless the claimant:

(A) is a party to the action;

(B) had employment which he or she was unable to continue or accept because of the court service; or

(C) refused or delayed an offer of suitable employment because of the court service.

The time spent in court service is not a personal service performed under a contract of hire and therefore is not considered employment.

(b) Activities Which Will Result in a Denial of Benefits.

(i) Refusal of Work.

When a claimant refuses any suitable work, the claimant is considered unavailable. Even though the claimant had valid reasons for not accepting the work, benefits will not be allowed for the week or weeks in which the work was available. Benefits are also denied when a claimant fails to be available for job referrals or a call to return to work under reasonable conditions consistent with a previously established work relationship. This includes referral attempts from a temporary employment service, a school district for substitute teaching, or any other employer for which work is "on-call."

(ii) Failure to Perform All Work During the Week of Separation.

(A) Benefits will be denied for the week in which separation from employment occurs if the claimant's unemployment was caused because the claimant was not able or available to do his or her work. In this circumstance, there is a presumption of continued inability or unavailability and an indefinite disqualification will be assessed until there is proof of a change in the conditions or circumstances.

(B) If the claimant was absent from work during the last week of employment and the claimant was not paid for the day or days of absence, benefits will be denied for that week. The claimant will be denied benefits under this section regardless of the length of the absence.

(3) Hours of Availability.

(a) Full-Time.

Except as provided in R994-403-111c(5), in order to meet the availability requirement, a claimant must be ready and willing to immediately accept full-time work. Full-time work generally means 40 hours a week but may vary due to customary practices in an occupation. If the claimant was last employed less than full-time, there is a rebuttable presumption that the claimant continues to be available for only part-time work.

(b) Other Than Normal Work Hours.

If the claimant worked other than normal work hours and the work schedule was adjusted to accommodate the claimant, the claimant cannot continue to limit his or her hours of availability even if the claimant was working 40 hours or more. The claimant must be available for full-time work during normal work hours as is customary for the industry.

(4) Type of Work and Wage Restrictions.

(a) The claimant must be available for work that is considered suitable based on the length of time he or she has been unemployed as provided in R994-405-306.

(b) Contract Obligation.

If a claimant is restricted due to a contractual obligation from competing with a former employer or accepting employment in the claimant's regular occupation, the claimant is not eligible for benefits unless the claimant can show that he or she:

(i) is actively seeking work outside the restrictions of the noncompete contract;

(ii) has the skills and/or training necessary to obtain that work; and

(iii) can reasonably expect to obtain that employment.

(5) Employer/Occupational Requirements.

If the claimant does not have the license or special equipment required for the type of work the claimant wants to obtain, the claimant cannot be considered available for work unless the claimant is actively seeking other types of work and has a reasonable expectation of obtaining that work.

(6) Temporary Availability.

When an individual is limited to temporary work because of anticipated military service, school attendance, travel, church service, relocation, a reasonable expectation of recall to a former employer for which the claimant is not in deferral status, or any other anticipated restriction on the claimant's future availability, availability is only established if the claimant is willing to accept and is actively seeking temporary work. The claimant must also show there is a realistic expectation that there is temporary work in the claimant's occupation, otherwise the claimant may be required to accept temporary work in another occupation. Evidence of a genuine desire to obtain temporary work may be shown by registration with and willingness to accept work with temporary employment services.

(7) Distance to Work.

(a) Customary Commuting Patterns.

A claimant must show reasonable access to public or private transportation, and a willingness to commute within customary commuting patterns for the occupation and community.

(b) Removal to a Locality of Limited Work Opportunities.

A claimant who moves from an area where there are substantial work opportunities to an area of limited work opportunities must demonstrate that the new locale has work for which the claimant is qualified and which the claimant is willing to perform. If the work is so limited in the new locale that there is little expectation the claimant will become reemployed, the continued unemployment is the result of the move and not the failure of the labor market to provide employment opportunities. In that case, the claimant is considered to have removed himself or herself from the labor market and is no longer eligible for benefits.

(8) School.

(a) A claimant attending school who has not been granted Department approval for a deferral must still meet all requirements of being able and available for work and be actively seeking work. Areas that need to be examined when making an eligibility determination with respect to a student include reviewing a claimant's work history while attending school, coupled with his or her efforts to secure full-time work. If the hours of school attendance conflict with the claimant's established work schedule or with the customary work schedule for the occupation in which the claimant is seeking work, a rebuttable presumption is established that the claimant is not available for full-time work and benefits will generally be denied. An announced willingness on the part of a claimant to discontinue school attendance or change his or her school schedule, if necessary, to accept work must be weighed against the time already spent in school as well as the financial loss the claimant may incur if he or she were to withdraw.

(b) A presumption of unavailability may also be raised if a claimant moves, for the purpose of attending school, from an area with substantial labor market to a labor market with more limited opportunities. In order to overcome this presumption, the claimant must demonstrate there is full-time work available in the new area which the claimant could reasonably expect to obtain.

(9) Employment of Youth.

Title 34, Chapter 23 of the Utah Code imposes limitations on the number of hours youth under the age of 16 may work. The following limitations do not apply if the individual has received a high school diploma or is married. Claimants under the age of 16 who do not provide proof of meeting one of these exceptions are under the following limitations whether or not in student status because they have a legal obligation to attend school. Youth under the age of 16 may not work:

(a) during school hours except as authorized by the proper school authorities;

(b) before or after school in excess of 4 hours a day;

(c) before 5:00 a.m. or after 9:30 p.m. on days preceding school days;

(d) in excess of 8 hours in any 24-hour period; or

(e) more than 40 hours in any week.

(10) Domestic Obligations.

When a claimant has an obligation to care for children or other dependents, the claimant must show that arrangements for the care of those individuals have been made for all hours that are normally worked in the claimant's occupation and must show a good faith, active work search effort.

#### **R994-403-302. Foreign Travel.**

(1) Benefits will not be denied if the claimant is required to travel to seek, apply for, or accept work within the United States or in a foreign country where the claimant has authorization to work and where there is a reciprocal agreement. The trip itself must be for the purpose of obtaining work. There is a rebuttable presumption that the claimant is not available for work when the trip is extended to accommodate the claimant's personal needs or interests, and the extension is for more than one-half of the workweek.

(2) Unemployment benefits cannot be paid to a claimant located in a foreign country unless the claimant has authorization to work there and there is a reciprocal agreement concerning the payment of unemployment benefits with that foreign country.

(3) Unemployment benefits are intended, in part, to stimulate the economy of Utah and the United States and thus are expected to be spent in this country. A claimant who travels to a foreign country must report to the Department that he or she is out of the country, even if it is for a temporary purpose and regardless of whether the claimant intends to return to the United States if work becomes available. Failure to inform the Department will result in a fraud overpayment for the weeks benefits were paid while the claimant was in a foreign country. The claimant may be eligible if the travel is to Canada but must notify the Department of that travel. Canada is the only country with which Utah has a reciprocal agreement. If the claimant travels to, but is not eligible to work in, Canada and fails to notify the Department of the travel, it will result in a fraud overpayment for the weeks benefits were paid while the claimant was in Canada.

**KEY:** filing deadlines, registration, student eligibility, unemployment compensation

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

**Notice of Continuation:** June 26, 2007

**Authorizing, and Implemented or Interpreted Law:** 35A-4-403(1)

## Workforce Services, Unemployment Insurance R994-406-403 Fraud Disqualification and Penalty

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37516

FILED: 04/11/2013

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to comply with changes made in H.B. 21 during the 2013 General Session.

**SUMMARY OF THE RULE OR CHANGE:** H.B. 21 changed the method of calculating the disqualification period for fraud so that it starts the week the fraud is discovered instead of the following week. This change is to mirror the statutory change.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 35A-1-104 and Section 35A-4-406 and Subsection 35A-1-104(4) and Subsection 35A-4-502(1)(b)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** This is a federally-funded program so there are no costs or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** This is a federally-funded program so there are no costs or savings to local government.
- ◆ **SMALL BUSINESSES:** This is a federally-funded program so there are no costs or savings to any small business.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no costs or savings to persons other than small businesses, businesses, or local government entities as there are no fees associated with this program and it is federally funded.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no costs or savings to any affected persons as there are no fees associated with this program and it is federally funded. These changes will not impact any employer's contribution rate.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. These changes will have no impact on any employer's contribution tax rate.

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

WORKFORCE SERVICES  
UNEMPLOYMENT INSURANCE  
140 E 300 S  
SALT LAKE CITY, UT 84111-2333  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2013

AUTHORIZED BY: Jon Pierpont, Executive Director

**R994. Workforce Services, Unemployment Insurance. R994-406. Fraud, Fault and Nonfault Overpayments. R994-406-403. Fraud Disqualification and Penalty.**

(1) Penalty Cannot be Modified.

The Department has no authority to reduce or otherwise modify the period of disqualification or the monetary penalties imposed by statute. The Department cannot exercise repayment discretion for fraud overpayments and these amounts are subject to all collection procedures.

(2) Week of Fraud.

(a) A "week of fraud" shall include each week any benefits were received due to fraud. The only exception to this is if the fraud occurred during the waiting week causing the next eligible week to become the new waiting week. In that case, the new waiting week will not be considered as a week of fraud for disqualification purposes. However, because the new waiting week is a non-payable week, any benefits received during that week will be assessed as an overpayment and because the overpayment was a result of fraud, a fraud penalty will also be assessed.

(b) If a claimant commits a fraudulent act during one week, and benefits are paid in later weeks which would not have been paid but for the original fraud, each week wherein benefits were paid is a week of fraud subject to an overpayment determination, a penalty and a disqualification period.

(c) If the only week of fraud was the waiting week and no benefit payments were made, there will be no disqualification period.

## (3) Disqualification Period.

(a) The claimant is ineligible for benefits for a period of 13 weeks for the first week of fraud. For each additional week of fraud, the claimant will be ineligible for benefits for an additional six weeks. The total number of weeks of disqualification will not exceed 49 weeks for each fraud determination. The Department will issue a fraud determination on all weeks of fraud the Department knows about at the time of the determination.

(b) The disqualification period begins the Sunday of the week the [following the date the Department] fraud determination is made.

## (4) Overpayment and Penalty.

(a) For any fraud decision where the initial fraud determination was issued on or before June 30, 2004, the claimant shall repay to the division an overpayment which is equal to the amount of the benefits actually received. In addition, a claimant shall be required to repay, as a civil penalty, the amount of benefits received as a direct result of fraud. "Benefits actually received" means the benefits paid or constructively paid by the Department. Constructively paid refers to benefits used to reduce or off-set an overpayment, deducted at the request of the claimant to pay income taxes, or used as a payment to the Office of Recovery Services for child support obligations or other payments as required by law. For example: The claimant has a weekly benefit amount of \$100 and reports no earnings during a week when he or she actually had \$50 in reportable earnings. Because a claimant may earn up to 30% of his or her weekly benefit amount with no deduction, the claimant was entitled to receive \$80 for that week and was thus overpaid the amount of \$20. If the elements of fraud are established, the claimant is disqualified during that week of fraud and all benefits paid for that week are considered an overpayment. The claimant

would also be liable to repay, as a civil penalty, the \$20 received by direct reason of fraud. Therefore, in this example, the claimant would be liable for a total overpayment and penalty of \$120, an amount that would have to be repaid in its entirety before the claimant would be eligible for any further waiting week credit or unemployment benefits. The claimant would also be subject to a 13-week penalty period.

(b) For all fraud decisions where the initial department determination is issued on or after July 1, 2004, the claimant shall repay to the division the overpayment and, as a civil penalty, an amount equal to the overpayment. The overpayment in this subparagraph is the amount of benefits the claimant received by direct reason of fraud. In the example in subsection (3)(a) of this section, the overpayment would be \$20 and the penalty would be \$20 for a total due of \$40. The overpayment and penalty would have to be repaid in its entirety before the claimant would be eligible for any further waiting week credit or unemployment benefits. The claimant would also be subject to a 13-week penalty period.

(5) Additional Penalties. Criminal prosecution of fraud may be pursued as provided by Subsection 35A-4-104(1) in addition to the administrative penalties.

**KEY: overpayments, unemployment compensation**

**Date of Enactment or Last Substantive Amendment:** ~~January 27,~~ 2013

**Notice of Continuation:** May 22, 2012

**Authorizing, and Implemented or Interpreted Law:** 35A-4-406(2); 35A-4-406(3); 35A-4-406(4); 35A-4-406(5)

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**End of the Notices of Proposed 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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## Administrative Services, Finance **R25-5**

### Payment of Per Diem to Boards

#### **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 37521  
FILED: 04/15/2013

#### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63A-3-106 authorizes the Division of Finance to establish per diem rates for all state officers and employees of the executive branch, except officers and employees of higher education, to defray subsistence costs for attendance at official meetings.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received from any interested persons concerning 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: It is necessary to continue this rule because it is required by statute. It sets the rates for per diem paid to board members and establishes the conditions under which the per diem will be paid. No opposing comments have been received.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
ADMINISTRATIVE SERVICES  
FINANCE  
ROOM 2110 STATE OFFICE BLDG  
450 N STATE ST  
SALT LAKE CITY, UT 84114-1201  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Richard Beckstead by phone at 801-538-3100, by FAX at 801-538-3562, or by Internet E-mail at [rbeckstead@utah.gov](mailto:rbeckstead@utah.gov)

AUTHORIZED BY: John Reidhead, Director

EFFECTIVE: 04/15/2013

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## Administrative Services, Finance **R25-6**

### Relocation Reimbursement

#### **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 37522  
FILED: 04/15/2013

#### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted under the authority of Subsection 63A-3-103(1) which authorizes the

Director of Finance to define fiscal procedures relating to approval and allocation of funds. This rule details under what conditions funds may be allocated for relocation reimbursement.

**SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE:** No written comments have been received from any interested persons concerning 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:** A division review determined that this rule should be continued because it sets the requirements for reimbursing relocation expenses to state employees. No opposing comments have been received.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 ADMINISTRATIVE SERVICES  
 FINANCE  
 ROOM 2110 STATE OFFICE BLDG  
 450 N STATE ST  
 SALT LAKE CITY, UT 84114-1201  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Richard Beckstead by phone at 801-538-3100, by FAX at 801-538-3562, or by Internet E-mail at rbeckstead@utah.gov

AUTHORIZED BY: John Reidhead, Director

EFFECTIVE: 04/15/2013

**SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE:** One comment was received on 06/02/2012, from Harriet R. McDonald, PhD. Her concern is that there should be more oversight and documentation for claimed reimbursable expenses.

**REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY:** A division review determined that this rule should be continued because it is required by statute. In response to Dr. McDonald's comments, the division feels that processing additional receipts creates an unnecessary administrative burden. The division also feels that requiring receipts may encourage employees to spend the maximum allowed.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 ADMINISTRATIVE SERVICES  
 FINANCE  
 ROOM 2110 STATE OFFICE BLDG  
 450 N STATE ST  
 SALT LAKE CITY, UT 84114-1201  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Richard Beckstead by phone at 801-538-3100, by FAX at 801-538-3562, or by Internet E-mail at rbeckstead@utah.gov

AUTHORIZED BY: John Reidhead, Director

EFFECTIVE: 04/15/2013

**Administrative Services, Finance  
 R25-7**

**Travel-Related Reimbursements for  
 State Employees**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 37523  
 FILED: 04/15/2013

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted under the authority of Section 63A-3-107 which authorizes the Division of Finance to adopt rules governing in-state and out-of-state travel.

**Administrative Services, Finance  
 R25-8**

**Overtime Meal Allowance**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 37524  
 FILED: 04/15/2013

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted under the authority of Subsection 63A-3-103(1), which authorizes the Division of Finance to define fiscal procedures relating to the approval and allocation of funds. This rule details under what conditions funds may be allocated for overtime meal allowance.

**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 Division of Finance has not received any written 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:** A division review determined that this rule should be continued because it is authorized by statute. The rule sets the requirements for paying an overtime meal allowance to a state employee. No opposing comments have been received.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
ADMINISTRATIVE SERVICES  
FINANCE  
ROOM 2110 STATE OFFICE BLDG  
450 N STATE ST  
SALT LAKE CITY, UT 84114-1201  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Richard Beckstead by phone at 801-538-3100, by FAX at 801-538-3562, or by Internet E-mail at rbeckstead@utah.gov

AUTHORIZED BY: John Reidhead, Director

EFFECTIVE: 04/15/2013

**Education, Administration**  
**R277-469**  
**Instructional Materials Commission**  
**Operating Procedures**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 37494  
FILED: 04/08/2013

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53A-14-102 directs the Utah State Board of Education (Board) to appoint an Instructional Materials Commission (Commission) and directs the Commission to evaluate instructional materials for recommendation by the Board, Section 53A-14-107 directs the Board to make rules that establish the qualifications of the independent parties who may evaluate and map the alignment of the primary instructional materials and

requirements for the detailed summary of the evaluation and its placement on a public website, and Subsection 53A-1-401(3) allows the Board to make rules in accordance with its responsibilities.

**SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE:** No written comments have been received.

**REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY:** This rule continues to be necessary because it provides operating procedures and criteria for recommending instructional materials for use in Utah public schools and mapping and alignment of primary instructional materials consistent with state law. Therefore, this rule should be continued.

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

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

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

EFFECTIVE: 04/08/2013

**Education, Administration**  
**R277-483**  
**Persistently Dangerous Schools**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 37495  
FILED: 04/08/2013

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the Utah State Board of Education (Board) to adopt rules in accordance with its responsibilities, and Title IX, Part E, Subpart 2, Section 9532, Unsafe School Choice Options,

requires a state receiving funds under this Act to establish and implement a statewide policy.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides standards and procedures, consistent with state and federal law, for students attending schools designated as persistently dangerous. Therefore, this rule should be continued.

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

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

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

EFFECTIVE: 04/08/2013

excessive loss in student enrollment due to factors beyond its control.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides procedures to compensate a school district financially for an excessive loss in student enrollment due to factors beyond the schools district's control. Therefore, this rule should be continued.

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

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

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

EFFECTIVE: 04/08/2013

Education, Administration  
**R277-485**  
 Loss of Enrollment

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 37496  
 FILED: 04/08/2013

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the Utah State Board of Education to adopt rules in accordance with its responsibilities. Section 53A-17a-139 allows the Board to increase Minimum School Program funds for a school district in order to avoid penalizing it for an

Education, Administration  
**R277-508**  
 Employment of Substitute Teachers

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 37497  
 FILED: 04/08/2013

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-402(1)(a) directs the Utah State Board of Education (Board) to make rules regarding the qualifications of educators and ancillary personnel providing direct student services and Subsection 53A-1-401(3) allows the Board to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it establishes eligibility requirements and employment procedures for substitute teachers as required by state law. Therefore, this rule should be continued.

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

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

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

EFFECTIVE: 04/08/2013

**Education, Administration  
 R277-746**

**Driver Education Programs for Utah  
 Schools**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 37498  
 FILED: 04/08/2013

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-13-201(4) directs the Utah State Board of Education (Board) to prescribe rules for driver education classes in the public schools and Subsection 53A-1-401(3) allows the Board to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR

OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides standards and procedures for school districts providing automobile driver education. Therefore, this rule should be continued.

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

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

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

EFFECTIVE: 04/08/2013

**Education, Administration  
 R277-751  
 Special Education Extended School  
 Year (ESY)**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 37499  
 FILED: 04/08/2013

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-402(1)(c) directs the Utah State Board of Education (Board) to adopt rules regarding services to students with disabilities and Subsection 53A-1-401(3) allows the Board to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides standards and procedures for the special education extended school year for specific students. Therefore, this rule should be continued.

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

EDUCATION  
ADMINISTRATION  
250 E 500 S  
SALT LAKE CITY, UT 84111-3272  
or at the Division of Administrative Rules.

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

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

EFFECTIVE: 04/08/2013

**Education, Rehabilitation  
R280-200  
Rehabilitation**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 37500  
FILED: 04/08/2013

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53A-24-105 permits the Utah State Board of Education (Board) to administer funds made available for vocational rehabilitation and independent living and Subsection 53A-1-401(3) allows the Board to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides standards and procedures for the Utah State

Office of Rehabilitation. Therefore, this rule should be continued.

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

EDUCATION  
REHABILITATION  
250 E 500 S  
SALT LAKE CITY, UT 84111-3272  
or at the Division of Administrative Rules.

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

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

EFFECTIVE: 04/08/2013

**Human Services, Administration  
R495-881  
Health Insurance Portability and  
Accountability Act (HIPPA) Privacy Rule  
Implementation**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 37525  
FILED: 04/15/2013

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-1-111 authorizes the Department of Human Services to adopt rules, not inconsistent with law, as the department may consider necessary or desirable for providing social services.

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 not been any written comments since the last five-year review of this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is to be continued to implement provisions required by 45 CFR Part 164, subpart E, dealing with the treatment of certain individually identifiable health information held by the Department of Human Services.

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

HUMAN SERVICES  
ADMINISTRATION  
DHS ADMINISTRATIVE OFFICE  
MULTI STATE OFFICE BUILDING  
195 N 1950 W  
SALT LAKE CITY, UT 84116  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at [jhjones@utah.gov](mailto:jhjones@utah.gov)

AUTHORIZED BY: Palmer DePaulis, Executive Director

EFFECTIVE: 04/15/2013

Human Services, Child and Family  
Services  
**R512-100**  
In-Home Services

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 37501  
FILED: 04/08/2013

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-4a-102 authorizes the Division of Child and Family Services to establish rules in order to provide programs and services that support the strengthening of family values, including services which preserve and enhance family life and relationships; protect children, youth, and families; and advocate and defend family values established by public policy and advocacy and education.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of this rule is necessary in order for the Division of Child and Family Services to provide In-Home Services pursuant to Sections 62A-4a-105, 62A-4a-201, and 62A-4a-202.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at [carolmiller@utah.gov](mailto:carolmiller@utah.gov)

♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at [jhjones@utah.gov](mailto:jhjones@utah.gov)

AUTHORIZED BY: Brent Platt, Director

EFFECTIVE: 04/08/2013

Human Services, Child and Family  
Services  
**R512-200**  
Child Protective Services, Intake  
Services

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 37502  
FILED: 04/08/2013

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-4a-102 authorizes the Division of Child and Family Services to establish rules in order to provide programs and services that support the strengthening of family values, including services which preserve and enhance family life and relationships; protect children, youth, and families; and advocate and defend family values established by public policy and advocacy and education.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of this rule is necessary in order for the Division of Child and Family Services to provide Child

Protective Services (CPS) pursuant to Sections 62A-4a-105 and 62A-4a-403.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Brent Platt, Director

EFFECTIVE: 04/08/2013

Human Services, Child and Family Services

**R512-201**

Child Protective Services, Investigation Services

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 37503  
FILED: 04/08/2013

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-4a-102 authorizes the Division of Child and Family Services to establish rules in order to provide programs and services that support the strengthening of family values, including services which preserve and enhance family life and relationships; protect children, youth, and families; and advocate and defend family values established by public policy and advocacy and education.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY

DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of this rule is necessary in order for the Division of Child and Family Services to provide Child Protective Services (CPS) pursuant to Sections 62A-4a-105 and 62A-4a-202.3.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Brent Platt, Director

EFFECTIVE: 04/08/2013

Human Services, Child and Family Services

**R512-202**

Child Protective Services, General Allegation Categories

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 37504  
FILED: 04/08/2013

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-4a-102 authorizes the Division of Child and Family Services to establish rules in order to provide programs and services that support the strengthening of family values, including services which preserve and enhance family life and relationships; protect children, youth, and families; and advocate and defend family values established by public policy and advocacy and education.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.



REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of this rule is necessary in order for the Division of Child and Family Services to provide Child Protective Services (CPS) pursuant to Section 62A-4a-105.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Brent Platt, Director

EFFECTIVE: 04/08/2013

Human Services, Child and Family  
Services  
**R512-500**  
Kinship Services, Placement and  
Background Screening

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 37505  
FILED: 04/08/2013

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-4a-102 authorizes the Division of Child and Family Services to establish rules in order to provide programs and services that support the strengthening of family values, including services which preserve and enhance family life and relationships; protect children, youth, and families; and advocate and defend family values established by public policy and advocacy and education.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of this rule is necessary in order for the Division of Child and Family Services to provide background screening for placement with relatives pursuant to Sections 62A-4a-209, 78A-6-307, and 78A-6-307.5.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Brent Platt, Director

EFFECTIVE: 04/08/2013

Human Services, Recovery Services  
**R527-475**  
State Tax Refund Intercept

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 37506  
FILED: 04/08/2013

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-11-107 gives the Office of Recovery Services (ORS) the authority to adopt, amend, and enforce rules necessary to carry out its responsibilities under state law. Section 59-10-529 authorizes crediting tax overpayments (refund) to any judgment or delinquent child support obligation after any income tax that may be due. It requires that the ORS make a determination of delinquency, give notice to the taxpayer of the past-due amount and that overpayment will be applied to reduce the individual's past-due support amount, and provide an opportunity for him/her to contest the amount of past-due support. This rule states that before ORS can intercept a state tax refund, there must be a valid order for the child support delinquency with a balance owing. Section 78B-12-112 provides clarification that an installment of child support is considered a judgment on and after the date it is due. The

statute also details that child support is not considered past-due until the first day of the following month. The rule also provides detail about how an intercepted tax refund shall be applied to three categories of support debt and how an obligated spouse who has filed jointly with the obligor may receive his/her portion of the tax refund.

**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 since the last five-year review of the rule.

**REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY:** The state laws upon which this rule is based are still in effect. The clarifications and procedures provided in the rule continue to be necessary for the appropriate implementation of those laws. Determination of delinquency, notice to the taxpayer and application of the tax intercept are essential in the collection of child support. 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:**

◆ Casey Cole by phone at 801-536-0360, by FAX at 801-536-8509, or by Internet E-mail at cacole@utah.gov

AUTHORIZED BY: Liesa Corbridge, Director

EFFECTIVE: 04/08/2013

## Labor Commission, Administration

### **R600-1**

#### Declaratory Orders

#### **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 37492  
FILED: 04/05/2013

#### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63G-4-503(2)

requires all agencies, including the Labor Commission, to issue rules for declaratory proceedings and orders.

**SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE:** No written comments have been received during or since the last five-year review of this rule.

**REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY:** As required by Subsection 63G-4-503(2), this rule provides the procedures for submission, review, and disposition of petitions for agency declaratory orders on the applicability of statutes, rules and orders governing or issued by the Commission, and should be continued.

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

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

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

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 04/05/2013

## Labor Commission, Boiler and Elevator Safety

### **R616-1**

#### Coal, Gilsonite, or other Hydrocarbon Mining Certification

#### **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 37493  
FILED: 04/05/2013

#### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 34A-1-104 gives the Labor Commission authority to establish rules to administer and enforce all laws for the protection of the life, health, and

safety of employees. Section 40-2-401 authorizes the Commission to certify individuals involved in coal, gilsonite, or other hydrocarbon mining pursuant to rules established by the Commission.

**SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE:** No written comments have been received during and since the last five-year review of this rule.

**REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY:** In light of the Commission's continuing certification of individuals involved in Utah's coal, gilsonite/hydrocarbon mining industries, continuation of this rule remains necessary. The Commission has received no comments in opposition to this rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
LABOR COMMISSION  
BOILER AND ELEVATOR SAFETY  
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:**  
♦ Ami Windham by phone at 801-530-6850, by FAX at 801-530-6871, or by Internet E-mail at [awindham@utah.gov](mailto:awindham@utah.gov)  
♦ Pete Hackford by phone at 801-530-7605, by FAX at 801-530-6871, or by Internet E-mail at [phackford@utah.gov](mailto:phackford@utah.gov)

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 04/05/2013

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**Natural Resources; Oil, Gas and  
Mining; Administration  
R642-200  
Applicability**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION  
DAR FILE NO.: 37472  
FILED: 04/02/2013**

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule concerning applicability

of Title R642 rules is authorized under the rulemaking authority granted in Sections 40-6-5, 40-8-6, and 40-10-6, and is specifically authorized by the Government Records and Management Act (GRAMA) at Subsection 63G-2-201(6) which addresses applicability of other laws or regulations on disclosure of records.

**SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE:** No written comments have been received.

**REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY:** This rule is necessary to reflect the applicability of Title R642 rules, Records of the Division and Board, when federal laws or regulations are also established for disclosure of records and are a condition for participation in a federal program. This rule should be continued so Utah's Coal Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
NATURAL RESOURCES  
OIL, GAS AND MINING; ADMINISTRATION  
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](mailto:steveschneider@utah.gov)

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 04/02/2013

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**Natural Resources; Oil, Gas and  
Mining; Coal  
R645-101**

**Restrictions on State Employees**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION  
DAR FILE NO.: 37473  
FILED: 04/02/2013**

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS

ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 40-10-6 and 40-10-6.5 provide for rulemaking authority to the Board of Oil, Gas and Mining as necessary for the regulation of coal mining operations and reclamation operations. Section 40-10-17 specifically provides that no employee of the division performing any function under Title 40, Chapter 10, shall have a direct or indirect financial interest in a coal mining operation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to restrict financial interest in coal mining operations by Division staff involved in coal regulation. This rule should be continued so Utah's Coal Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

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

NATURAL RESOURCES  
OIL, GAS AND MINING; COAL  
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

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 04/02/2013

**Natural Resources; Oil, Gas and  
Mining; Coal  
R645-104  
Protection of Employees**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION  
DAR FILE NO.: 37474  
FILED: 04/02/2013**

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 40-10-6 and 40-10-6.5 provide for rulemaking authority to the Board of Oil, Gas and Mining as necessary for the regulation of coal mining operations and reclamation operations. Section 40-10-6.7 specifically provides the authority for administrative procedures for proceedings conducted under Title 40, Chapter 10, and guarantees the parties' due process rights.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to identify the processes for protection of employees in the performance of their coal mining regulation work. This rule should be continued so Utah's Coal Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

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

NATURAL RESOURCES  
OIL, GAS AND MINING; COAL  
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

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 04/02/2013

**Natural Resources; Oil, Gas and  
Mining; Coal  
R645-401  
Inspection and Enforcement: Civil  
Penalties**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**DAR FILE NO.: 37475  
FILED: 04/02/2013**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 40-10-6 and 40-10-6.5 provide for rulemaking authority to the Board of Oil, Gas and Mining as necessary for the regulation of coal mining operations and reclamation operations. Section 40-10-20 specifically authorizes civil penalties for violation of Title 40, Chapter 10.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is implemented to deter violations of the Coal Program regulations via the assessment of civil penalties. This rule should be continued so Utah's Coal Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

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

NATURAL RESOURCES  
OIL, GAS AND MINING; COAL  
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

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 04/02/2013

Natural Resources; Oil, Gas and  
Mining; Non-coal

**R647-6**

Inspection and Enforcement: Division  
Authority and Procedures

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**DAR FILE NO.: 37476  
FILED: 04/02/2013**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 40-8-6 provides authority to the Board of Oil, Gas and Mining to enact rules that are reasonably necessary to carry out the purposes of the Utah Mined Land Reclamation Act. Section 40-8-9 specifically provides authority for inspections and the issuance of cessation orders or notices of violations for noncompliance.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes the authority for conducting inspections of mineral mined land activities and establishes the procedures for enforcement including cessations orders, notice of violations, and compliance conferences. This rule should be continued to ensure adequate inspection and enforcement provisions are in place to enable a fair and consistent process for issuance and resolution of such matters in the minerals industry.

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

NATURAL RESOURCES  
OIL, GAS AND MINING; NON-COAL  
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

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 04/02/2013

Natural Resources; Oil, Gas and Mining; Non-coal

R647-7

Inspection and Enforcement: Civil Penalties

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37477
FILED: 04/02/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 40-8-6 provides authority to the Board of Oil, Gas and Mining to enact rules that are reasonably necessary to carry out the purposes of the Utah Mined Land Reclamation Act. Specifically, Section 40-8-9.1 provides authority for civil penalties to be assessed by the division for violation of Title 40, Chapter 8.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes provisions for civil penalties for violation of the Mined Land Reclamation Act and should be continued to ensure that minerals development in Utah occurs with compliance of the rules for exploration, operation, and reclamation.

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

NATURAL RESOURCES
OIL, GAS AND MINING; NON-COAL
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

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 04/02/2013

Natural Resources; Oil, Gas and Mining; Non-coal

R647-8

Inspection and Enforcement: Individual Civil Penalties

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 37478
FILED: 04/02/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 40-8-6 provides authority to the Board of Oil, Gas and Mining to enact rules that are reasonably necessary to carry out the purposes of the Utah Mined Land Reclamation Act. Subsection 40-8-9.1(6) specifically provides authority for individual civil penalties to be assessed by the division for violation of Title 40, Chapter 8.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes provisions for individual civil penalties for violation of the Mined Land Reclamation Act and should be continued to ensure that minerals development in Utah occurs with compliance of the rules for exploration, operation, and reclamation.

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

NATURAL RESOURCES
OIL, GAS AND MINING; NON-COAL
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

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 04/02/2013

Natural Resources; Oil, Gas and  
Mining; Oil and Gas

**R649-6**

Gas Processing and Waste Crude Oil  
Treatment

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 37479  
FILED: 04/02/2013

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 40-6-5 provides the rulemaking authority to the Board of Oil, Gas and Mining for regulation of the oil and gas industry in Utah. Subsections 40-6-5(2)(c) and 40-6-5(2)(h) specifically provide for regulation of gas processing plants and waste crude oil treatment, respectively.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Written comments recently from an industry association in January 2013 support renewal of this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes regulatory requirements for gas processing plants and waste crude oil treatment and should be continued to ensure adequate regulation of these facilities in the oil and gas industry in order to provide public information and to protect the environment.

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](mailto:steveschneider@utah.gov)

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 04/02/2013

Natural Resources, Parks and  
Recreation

**R651-407**

Off-Highway Vehicle Advisory Council

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 37519  
FILED: 04/12/2013

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted under Section 41-22-10, Powers of board relating to off-highway vehicles. This rule is required because it allows the Utah State Parks Board to appoint and describe the twelve-member off-highway vehicle advisory council.

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 submitted over the last five years that either support or oppose 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 meets the needs of the represented public. The advisory council assists, in uniformity of travel management plans, safety and education, along with our ability to work with the public. This rule also increases transparency amongst the different representatives within the OHV community. Therefore, this rule should be continued. The Division seeks public input and value the ability of public participation involved with the safety, protection of persons and property, and the environment connected the use of OHV equipment according to Section 41-22-1.

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

AUTHORIZED BY: Fred Hayes, Director

EFFECTIVE: 04/12/2013

**Public Safety, Criminal Investigations  
 and Technical Services, Criminal  
 Identification  
 R722-900  
 Review and Challenge of Criminal  
 Record**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 37514  
 FILED: 04/10/2013

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53-10-108(8)(a) requires the Commissioner of Public Safety to establish procedures to allow an individual to review his/her criminal history record information. Subsection 53-10-108(8)(c) requires the Commissioner to establish procedures to allow an individual to challenge the completeness and accuracy of his/her criminal history record information. The purpose of this rule is to establish those procedures.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received during or since the last five-year review of the rule from interested persons 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: The rule is needed so that individuals can review their criminal history record information to assure that the information is accurate and complete. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 PUBLIC SAFETY  
 CRIMINAL INVESTIGATIONS AND TECHNICAL SERVICES,

CRIMINAL IDENTIFICATION  
 3888 W 5400 S  
 TAYLORSVILLE, UT 84118  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Alice Moffat by phone at 801-965-4939, by FAX at 801-965-4944, or by Internet E-mail at aerickso@utah.gov

AUTHORIZED BY: Alice Moffat, Bureau Chief

EFFECTIVE: 04/10/2013

**Workforce Services, Unemployment  
 Insurance  
 R994-201  
 Definition of Terms in Employment  
 Security Act**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 37518  
 FILED: 04/11/2013

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security Act. This rule is entitled General Definitions and Acronyms and adopts definitions set by the Department or in the statute.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The definitions and acronyms are necessary to assist citizens and lawyers who use the rules to know what words, phrases, and acronyms found elsewhere in the rules mean. Therefore, this rule should be continued.



THE FULL TEXT OF THIS RULE MAY BE INSPECTED,  
DURING REGULAR BUSINESS HOURS, AT:  
WORKFORCE SERVICES  
UNEMPLOYMENT INSURANCE  
140 E 300 S  
SALT LAKE CITY, UT 84111-2333  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-  
526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 04/11/2013

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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

Occupational and Professional Licensing

No. 37270 (AMD): R156-67-306. Exemptions from  
Licensure

Published: 03/01/2013

Effective: 04/08/2013

No. 37271 (AMD): R156-68-306. Exemptions from  
Licensure

Published: 03/01/2013

Effective: 04/08/2013

### Real Estate

No. 37076 (AMD): R162-57a. Timeshare and Camp Resort  
Rules

Published: 12/15/2012

Effective: 04/02/2013

### Education

Administration

No. 37278 (AMD): R277-445-3. Standards

Published: 03/01/2013

Effective: 04/08/2013

No. 37279 (NEW): R277-498. Grant for Math Teaching  
Training

Published: 03/01/2013

Effective: 04/08/2013

No. 37280 (NEW): R277-532. Local Board Policies for  
Evaluation of Non-Licensed Public Education Employees  
(Classified Employees)

Published: 03/01/2013

Effective: 04/08/2013

### Environmental Quality

Air Quality

No. 36481 (NEW): R307-208. Outdoor Wood Boiler  
Prohibition

Published: 08/01/2012

Effective: 04/10/2013

No. 36481 (First CPR): R307-208. Outdoor Wood Boiler  
Prohibition

Published: 12/01/2012

Effective: 04/10/2013

No. 36481 (Second CPR): R307-208. Outdoor Wood Boilers

Published: 03/01/2013

Effective: 04/10/2013

No. 36480 (NEW): R307-303. Commercial Cooking

Published: 08/01/2012

Effective: 04/10/2013

No. 36480 (First CPR): R307-303. Commercial Cooking

Published: 12/01/2012

Effective: 04/10/2013

No. 36480 (Second CPR): R307-303. Commercial Cooking

Published: 03/01/2013

Effective: 04/10/2013

### Human Services

Aging and Adult Services

No. 37228 (AMD): R510-104-11. Liquid Meals

Published: 02/15/2013

Effective: 04/15/2013

### Natural Resources

Parks and Recreation

No. 37242 (AMD): R651-224. Towed Devices

Published: 02/15/2013

Effective: 04/12/2013

Workforce Services

Unemployment Insurance

No. 37238 (AMD): R994-406-301.Claimant Fault

Published: 02/15/2013

Effective: 04/02/2013

**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, 2013 through April 15, 2013. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to Nancy Lancaster (801-538-3218), Mike Broschinsky (801-538-3003), or Kenneth A. Hansen (801-538-3777).

A copy of the Rules Index is available for public inspection at the Division of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

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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>Facilities Construction and Management</u>					
R23-13	State of Utah Parking Rules for Facilities Managed by the Division of Facilities and Construction and Management	37357	5YR	02/20/2013	2013-6/49
R23-22	General Procedures for Acquisition and Selling of Real Property	37358	5YR	02/20/2013	2013-6/49
<u>Finance</u>					
R25-5	Payment of Per Diem to Boards	37521	5YR	04/15/2013	Not Printed
R25-6	Relocation Reimbursement	37522	5YR	04/15/2013	Not Printed
R25-7	Travel-Related Reimbursements for State Employees	37523	5YR	04/15/2013	Not Printed
R25-8	Overtime Meal Allowance	37524	5YR	04/15/2013	Not Printed
<u>Fleet Operations</u>					
R27-3	Vehicle Use Standards	36949	AMD	03/07/2013	2012-22/11
<b>AGRICULTURE AND FOOD</b>					
<u>Animal Industry</u>					
R58-6	Poultry	37248	R&R	03/25/2013	2013-4/6
R58-18	Elk Farming	37246	AMD	03/25/2013	2013-4/12
R58-19	Compliance Procedures	37247	AMD	03/25/2013	2013-4/13
R58-21	Trichomoniasis	36962	AMD	01/04/2013	2012-22/16
<u>Horse Racing Commission (Utah)</u>					
R52-7	Horse Racing	37420	EMR	03/20/2013	2013-8/47
<u>Plant Industry</u>					
R68-5	Grain Inspection	37249	5YR	02/05/2013	2013-5/189
R68-14	Quarantine Pertaining to Gypsy Moth - Lymantria Dispar	37445	5YR	03/27/2013	2013-8/53
<u>Regulatory Services</u>					
R70-310	Grade A Pasteurized Milk	37027	AMD	01/29/2013	2012-23/6
R70-320-18	Transport Tanks, Operators	36915	AMD	01/29/2013	2012-21/8
R70-330	Raw Milk for Retail	36914	AMD	01/29/2013	2012-21/9
<b>CAPITOL PRESERVATION BOARD (STATE)</b>					
<u>Administration</u>					
R131-2	Capitol Hill Complex Facility Use	37064	AMD	01/07/2013	2012-23/9

COMMERCE

Occupational and Professional Licensing

R156-1	General Rule of the Division of Occupational and Professional Licensing	37395	NSC	04/01/2013	Not Printed
R156-1-102	Definitions	37199	AMD	03/11/2013	2013-3/2
R156-3a-102	Definitions	37073	AMD	01/24/2013	2012-24/6
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rule	37074	AMD	01/24/2013	2012-24/7
R156-31b	Nurse Practice Act Rule	37417	5YR	03/18/2013	2013-8/53
R156-37	Utah Controlled Substances Act Rule	37040	AMD	01/08/2013	2012-23/18
R156-37-502	Unprofessional Conduct	37175	NSC	01/30/2013	Not Printed
R156-37f	Controlled Substance Database Act Rule	37039	NEW	01/08/2013	2012-23/21
R156-44a	Nurse Midwife Practice Act Rules	37071	AMD	01/22/2013	2012-24/11
R156-49	Dietitian Certification Act Rule	37273	5YR	02/07/2013	2013-5/189
R156-53	Landscape Architects Licensing Act Rule	37274	5YR	02/07/2013	2013-5/190
R156-67-306	Exemptions from Licensure	37270	AMD	04/08/2013	2013-5/10
R156-68	Utah Osteopathic Medical Practice Act Rule	37272	5YR	02/07/2013	2013-5/191
R156-68-306	Exemptions from Licensure	37271	AMD	04/08/2013	2013-5/11
R156-82	Electronic Prescribing Act Rule	37202	NEW	03/11/2013	2013-3/5
R156-82	Electronic Prescribing Act Rule	37396	NSC	04/01/2013	Not Printed

Real Estate

R162-2g	Real Estate Appraiser Licensing and Certification Administrative Rules	36973	AMD	01/02/2013	2012-22/19
R162-57a	Timeshare and Camp Resort Rules	37076	AMD	04/02/2013	2012-24/14

Securities

R164-31-1	Guidelines for the Assessment of Administrative Fines	37042	AMD	01/08/2013	2012-23/26
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CORRECTIONS

Administration

R251-114	Offender Long-Term Health Care - Notice	37389	5YR	03/07/2013	2013-7/61
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CRIME VICTIM REPARATIONS

Administration

R270-1	Award and Reparation Standards	37061	AMD	01/07/2013	2012-23/27
R270-1	Award and Reparation Standards	37166	NSC	01/30/2013	Not Printed
R270-2	Crime Victim Reparations Adjudicative Proceedings	37063	AMD	01/07/2013	2012-23/33
R270-2	Crime Victim Reparations Adjudicative Proceedings	37167	NSC	01/30/2013	Not Printed

EDUCATION

Administration

R277-445-3	Standards	37278	AMD	04/08/2013	2013-5/13
R277-460-6	Evaluation and Reports	37419	NSC	04/15/2013	Not Printed
R277-469	Instructional Materials Commission Operating Procedures	37494	5YR	04/08/2013	Not Printed
R277-483	Persistently Dangerous Schools	37495	5YR	04/08/2013	Not Printed
R277-484	Data Standards	37145	AMD	02/21/2013	2013-2/4
R277-485	Loss of Enrollment	37496	5YR	04/08/2013	Not Printed
R277-487	Public School Student Confidentiality	37144	AMD	02/21/2013	2013-2/7
R277-498	Grant for Math Teaching Training	37279	NEW	04/08/2013	2013-5/14
R277-502	Educator Licensing and Data Retention	37058	AMD	01/07/2013	2012-23/34
R277-502	Educator Licensing and Data Retention	37146	AMD	02/21/2013	2013-2/10
R277-508	Employment of Substitute Teachers	37497	5YR	04/08/2013	Not Printed
R277-509	Licensure of Student Teachers and Interns	37059	AMD	01/07/2013	2012-23/39
R277-517	Board and UPPAC Disciplinary Definitions and Actions	37147	NEW	02/21/2013	2013-2/15
R277-517-5	Board Disciplinary Actions	37359	NSC	03/15/2013	Not Printed
R277-518	Career and Technical Education Licenses	37399	5YR	03/12/2013	2013-7/61

RULES INDEX

R277-532	Local Board Policies for Evaluation of Non-Licensed Public Education Employees (Classified Employees)	37280	NEW	04/08/2013	2013-5/16
R277-600	Student Transportation Standards and Procedures	37400	5YR	03/12/2013	2013-7/62
R277-605	Coaching Standards and Athletic Clinics	37401	5YR	03/12/2013	2013-7/62
R277-610	Released-Time Classes	37402	5YR	03/12/2013	2013-7/63
R277-700	The Elementary and Secondary School Core Curriculum	37403	5YR	03/12/2013	2013-7/63
R277-702	Procedures for the Utah High School Completion Diploma (Effective on July 1, 2009)	37404	5YR	03/12/2013	2013-7/64
R277-709	Education Programs Serving Youth in Custody	37405	5YR	03/12/2013	2013-7/64
R277-709-3	Student Evaluation, Education Plans, and LEA Programs	37244	NSC	02/15/2013	Not Printed
R277-719	Standards for Selling Foods Outside of the Reimbursable Meal in Schools	37406	5YR	03/12/2013	2013-7/65
R277-746	Driver Education Programs for Utah Schools	37498	5YR	04/08/2013	Not Printed
R277-751	Special Education Extended School Year (ESY)	37499	5YR	04/08/2013	Not Printed

Rehabilitation

R280-200	Rehabilitation	37500	5YR	04/08/2013	Not Printed
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ENVIRONMENTAL QUALITY

Administration

R305-2	Electronic Meeting	37360	5YR	02/25/2013	2013-6/50
R305-6	Administrative Procedures	36554	REP	01/31/2013	2012-16/28
R305-6	Administrative Procedures	36554	CPR	01/31/2013	2013-1/32
R305-7	Administrative Procedures	36553	NEW	01/31/2013	2012-16/45
R305-7	Administrative Procedures	36553	CPR	01/31/2013	2013-1/32
R305-9	Recusal of a Board Member for Conflict of Interest	36776	NEW	02/22/2013	2012-19/28
R305-9	Recusal of a Board Member for Conflict of Interest	36776	CPR	02/22/2013	2013-2/94

Air Quality

R307-101-2	Definitions	36723	AMD	02/01/2013	2012-19/29
R307-101-2	Definitions	36723	CPR	02/01/2013	2013-1/38
R307-102	General Requirements: Broadly Applicable Requirements	37261	5YR	02/06/2013	2013-5/191
R307-115	General Conformity	37260	5YR	02/06/2013	2013-5/192
R307-170	Continuous Emission Monitoring Program	37259	5YR	02/06/2013	2013-5/192
R307-208	Outdoor Wood Boiler Prohibition	36481	NEW	04/10/2013	2012-15/12
R307-208	Outdoor Wood Boiler Prohibition	36481	CPR	04/10/2013	2012-23/56
R307-208	Outdoor Wood Boilers	36481	CPR	04/10/2013	2013-5/184
R307-220	Emission Standards: Plan for Designated Facilities	37258	5YR	02/06/2013	2013-5/193
R307-221	Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills	37257	5YR	02/06/2013	2013-5/194
R307-222	Emission Standards: Existing Incinerators for Hospital, Medical, Infectious Waste	37256	5YR	02/06/2013	2013-5/194
R307-223	Emission Standards: Existing Small Municipal Waste Combustion Units	37255	5YR	02/06/2013	2013-5/195
R307-224	Mercury Emission Standards: Coal-Fired Electric Generating Units	37254	5YR	02/06/2013	2013-5/195
R307-250	Western Backstop Sulfur Dioxide Trading Program	37253	5YR	02/06/2013	2013-5/196
R307-303	Commercial Cooking	36480	NEW	04/10/2013	2012-15/13
R307-303	Commercial Cooking	36480	CPR	04/10/2013	2012-23/60
R307-303	Commercial Cooking	36480	CPR	04/10/2013	2013-5/186
R307-307	Davis, Salt Lake, and Utah Counties: Road Salting and Sanding	36741	AMD	02/01/2013	2012-19/42
R307-307	Davis, Salt Lake, and Utah Counties: Road Salting and Sanding	36741	CPR	02/01/2013	2013-1/45
R307-307	Road Salting and Sanding	37234	NSC	02/15/2013	Not Printed



R307-312	Aggregate Processing Operations for PM2.5 Nonattainment Areas	36740	NEW	02/01/2013	2012-19/45
R307-312	Aggregate Processing Operations for PM2.5 Nonattainment Areas	36740	CPR	02/01/2013	2013-1/47
R307-340	Ozone Nonattainment and Maintenance Areas: Surface Coating Processes	36725	REP	02/01/2013	2012-19/49
R307-340	Ozone Nonattainment and Maintenance Areas: Surface Coating Processes	36725	CPR	02/01/2013	2013-1/48
R307-344	Paper, Film, and Foil Coatings	36726	NEW	02/01/2013	2012-19/65
R307-344	Paper, Film, and Foil Coatings	36726	CPR	02/01/2013	2013-1/52
R307-345	Fabric and Vinyl Coatings	36727	NEW	02/01/2013	2012-19/67
R307-345	Fabric and Vinyl Coatings	36727	CPR	02/01/2013	2013-1/54
R307-346	Metal Furniture Surface Coatings	36728	NEW	02/01/2013	2012-19/69
R307-346	Metal Furniture Surface Coatings	36728	CPR	02/01/2013	2013-1/57
R307-347	Large Appliance Surface Coatings	36729	NEW	02/01/2013	2012-19/71
R307-347	Large Appliance Surface Coatings	36729	CPR	02/01/2013	2013-1/59
R307-348	Magnet Wire Coatings	36730	NEW	02/01/2013	2012-19/73
R307-348	Magnet Wire Coatings	36730	CPR	02/01/2013	2013-1/61
R307-349	Flat Wood Panel Coatings	36731	NEW	02/01/2013	2012-19/74
R307-349	Flat Wood Panel Coatings	36731	CPR	02/01/2013	2013-1/63
R307-350	Miscellaneous Metal Parts and Products Coatings	36732	NEW	02/01/2013	2012-19/76
R307-350	Miscellaneous Metal Parts and Products Coatings	36732	CPR	02/01/2013	2013-1/65
R307-351	Graphic Arts	36733	NEW	02/01/2013	2012-19/80
R307-351	Graphic Arts	36733	CPR	02/01/2013	2013-1/69
R307-351-4	Standards for Rotogravure, Flexographic, and Specialty Printing Operations	37235	NSC	02/15/2013	Not Printed
R307-352	Metal Container, Closure, and Coil Coatings	36734	NEW	02/01/2013	2012-19/84
R307-352	Metal Container, Closure, and Coil Coatings	36734	CPR	02/01/2013	2013-1/73
R307-354	Automotive Refinishing Coatings	36736	NEW	02/01/2013	2012-19/88
R307-354	Automotive Refinishing Coatings	36736	CPR	02/01/2013	2013-1/79
R307-355	Control of Emissions from Aerospace Manufacture and Rework Facilities	36737	NEW	02/01/2013	2012-19/91
R307-355	Control of Emissions from Aerospace Manufacture and Rework Facilities	36737	CPR	02/01/2013	2013-1/82
R307-355-5	Emission Standards	37237	NSC	02/15/2013	Not Printed
R307-401-15	Air Strippers and Soil Venting Projects	37037	AMD	02/07/2013	2012-23/40
R307-401-15	Air Strippers and Soil Venting Projects	37236	NSC	02/15/2013	Not Printed
R307-801	Utah Asbestos Rule	37252	5YR	02/06/2013	2013-5/197
<u>Drinking Water</u>					
R309-515-6	Ground Water - Wells	36562	AMD	01/16/2013	2012-16/66
R309-515-6	Ground Water - Wells	36562	CPR	01/16/2013	2012-23/70
<u>Radiation Control</u>					
R313-12	General Provisions	37189	AMD	03/19/2013	2013-3/6
R313-14	Violations and Escalated Enforcement	37190	AMD	03/19/2013	2013-3/14
R313-15	Standards for Protection Against Radiation	37191	AMD	03/19/2013	2013-3/18
R313-16	General Requirements Applicable to the Installation, Registration, Inspection, and Use of Radiation Machines	37179	NSC	01/31/2013	Not Printed
R313-17	Administrative Procedures	37192	AMD	03/19/2013	2013-3/40
R313-18	Notices, Instructions and Reports to Workers by Licensees or Registrants--Inspections	37193	AMD	03/19/2013	2013-3/42
R313-19	Requirements of General Applicability to Licensing of Radioactive Material	37194	AMD	03/19/2013	2013-3/45
R313-21	General Licenses	37181	NSC	01/31/2013	Not Printed
R313-22	Specific Licenses	37195	AMD	03/19/2013	2013-3/56
R313-24	Uranium Mills and Source Material Mill Tailings Disposal Facility Requirements	37196	AMD	03/19/2013	2013-3/74
R313-25	License Requirements for Land Disposal of Radioactive Waste - General Provisions	37180	NSC	01/31/2013	Not Printed
R313-26	Generator Site Access Permit Requirements for Accessing Utah Radioactive Waste Disposal Facilities	37182	NSC	01/31/2013	Not Printed
R313-28	Use of X-Rays in the Healing Arts	37183	NSC	01/31/2013	Not Printed

RULES INDEX

R313-30	Therapeutic Radiation Machines	37197	AMD	03/19/2013	2013-3/76
R313-32	Medical Use of Radioactive Material	37184	NSC	01/31/2013	Not Printed
R313-34	Requirements for Irradiators	37185	NSC	01/31/2013	Not Printed
R313-35	Requirements for X-Ray Equipment Used for Non-Medical Applications	37198	AMD	03/19/2013	2013-3/91
R313-36	Special Requirements for Industrial Radiographic Operations	37186	NSC	01/31/2013	Not Printed
R313-38	Licenses and Radiation Safety Requirements for Well Logging	37187	NSC	01/31/2013	Not Printed
R313-70	Payments, Categories and Types of Fees	37188	NSC	01/31/2013	Not Printed
<u>Solid and Hazardous Waste</u>					
R315-301	Solid Waste Authority, Definitions, and General Requirements	37282	5YR	02/13/2013	2013-5/198
R315-302	Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements	37283	5YR	02/13/2013	2013-5/198
R315-303	Landfilling Standards	37284	5YR	02/13/2013	2013-5/199
R315-304	Industrial Solid Waste Landfill Requirements	37285	5YR	02/13/2013	2013-5/200
R315-305	Class IV and VI Landfill Requirements	37286	5YR	02/13/2013	2013-5/200
R315-306	Incinerator Standards	37287	5YR	02/13/2013	2013-5/201
R315-307	Landtreatment Disposal Standards	37288	5YR	02/13/2013	2013-5/201
R315-308	Ground Water Monitoring Requirements	37289	5YR	02/13/2013	2013-5/202
R315-309	Financial Assurance	37290	5YR	02/13/2013	2013-5/202
R315-310	Permit Requirements for Solid Waste Facilities	37291	5YR	02/13/2013	2013-5/203
R315-311	Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery and Incinerator Facilities	37292	5YR	02/13/2013	2013-5/204
R315-312	Recycling and Composting Facility Standards	37293	5YR	02/13/2013	2013-5/204
R315-313	Transfer Stations and Drop Box Facilities	37294	5YR	02/13/2013	2013-5/205
R315-314	Facility Standards for Piles Used for Storage and Treatment	37295	5YR	02/13/2013	2013-5/205
R315-315	Special Waste Requirements	37296	5YR	02/13/2013	2013-5/206
R315-316	Infectious Waste Requirements	37297	5YR	02/13/2013	2013-5/206
R315-317	Other Processes, Variances, Violations, and Petition for Rule Change	37298	5YR	02/13/2013	2013-5/207
R315-318	Permit by Rule	37299	5YR	02/13/2013	2013-5/208
R315-320	Waste Tire Transporter and Recycler Requirements	37300	5YR	02/13/2013	2013-5/208
<u>Water Quality</u>					
R317-9	Administrative Procedures	37239	5YR	01/31/2013	2013-4/51
R317-13	Approvals and Permits for a Water Reuse Project	37240	5YR	01/31/2013	2013-4/51
R317-14	Approval in Change in Point of Discharge of POTW	37241	5YR	01/31/2013	2013-4/52
R317-101	Utah Wastewater Project Assistance Program	37448	5YR	03/28/2013	2013-8/54
GOVERNOR					
<u>Economic Development</u>					
R357-2	Rural Broadband Service Fund	37206	EXT	01/16/2013	2013-4/63
HEALTH					
<u>Center for Health Data, Vital Records and Statistics</u>					
R436-1	Duties of the Department of Health	37418	5YR	03/19/2013	2013-8/55
R436-2	Infants of Unknown Parentage; Foundling Registration	37423	5YR	03/21/2013	2013-8/56
R436-3	Amendment of Vital Records	37424	5YR	03/21/2013	2013-8/57
R436-4	Delayed Registration of Birth	37425	5YR	03/21/2013	2013-8/57
R436-7	Death Registration	37426	5YR	03/21/2013	2013-8/58
R436-8	Authorization for Final Disposition of Deceased Persons	37427	5YR	03/21/2013	2013-8/58
R436-9	Persons and Institutions Required to Keep Monthly Listings of Vital Statistics Events	37428	5YR	03/21/2013	2013-8/59
R436-10	Birth and Death Certificates	37429	5YR	03/21/2013	2013-8/60

R436-12	Certified Copies of Vital Statistics Records	37430	5YR	03/21/2013	2013-8/60
R436-13	Disclosure of Records	37431	5YR	03/21/2013	2013-8/61
R436-14	Copies of Data from Vital Records	37432	5YR	03/21/2013	2013-8/61
R436-15	Fees	37433	5YR	03/21/2013	2013-8/62
R436-16	Violation of Rules	37434	5YR	03/21/2013	2013-8/62
R436-17	Review and Approval of Research Requests	37435	5YR	03/21/2013	2013-8/63
<u>Disease Control and Prevention, Environmental Services</u>					
R392-302-3	General Requirements	37072	AMD	02/28/2013	2012-24/26
R392-700	Indoor Tanning Bed Sanitation	37251	5YR	02/06/2013	2013-5/209
<u>Disease Control and Prevention, Health Promotion</u>					
R384-201	School-Based Vision Screening for Students in Public Schools	37028	NEW	02/20/2013	2012-23/42
<u>Family Health and Preparedness, Emergency Medical Services</u>					
R426-2	Air Medical Service Rules	37397	EXD	02/24/2013	2013-7/71
R426-2	Air Medical Service Rules	37409	EMR	03/14/2013	2013-7/55
R426-6	Emergency Medical Services Competitive Grants Program Rules	37398	EXD	03/01/2013	2013-7/71
R426-6	Emergency Medical Services Competitive Grants Program Rules	37408	EMR	03/14/2013	2013-7/59
<u>Family Health and Preparedness, Licensing</u>					
R432-16	Hospice Inpatient Facility Construction	37281	5YR	02/11/2013	2013-5/209
R432-35	Background Screening -- Health Facilities	37441	5YR	03/25/2013	2013-8/55
<u>Health Care Financing</u>					
R410-14	Administrative Hearing Procedures	37045	AMD	01/09/2013	2012-23/44
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-1-5	Incorporations by Reference	37122	AMD	03/01/2013	2013-2/18
R414-6	Reduction in Certain Targeted Case Management Services	37391	5YR	03/08/2013	2013-7/65
R414-27	Medicaid Certification of Nursing Care Facilities	37177	5YR	01/09/2013	2013-3/109
R414-301	Medicaid General Provisions	37221	5YR	01/23/2013	2013-4/52
R414-302	Eligibility Requirements	37215	5YR	01/23/2013	2013-4/53
R414-303	Coverage Groups	37173	EMR	01/07/2013	2013-3/103
R414-303	Coverage Groups	37216	5YR	01/23/2013	2013-4/53
R414-304	Income and Budgeting	37217	5YR	01/23/2013	2013-4/54
R414-305	Resources	37222	5YR	01/23/2013	2013-4/54
R414-306	Program Benefits and Date of Eligibility	37174	EMR	01/07/2013	2013-3/105
R414-306	Program Benefits and Date of Eligibility	37218	5YR	01/23/2013	2013-4/55
R414-308	Application, Eligibility Determinations and Improper Medical Assistance	37223	5YR	01/23/2013	2013-4/55
HUMAN SERVICES					
<u>Administration</u>					
R495-881	Health Insurance Portability and Accountability Act (HIPPA) Privacy Rule Implementation	37525	5YR	04/15/2013	Not Printed
<u>Aging and Adult Services</u>					
R510-104-11	Liquid Meals	37228	AMD	04/15/2013	2013-4/18
R510-105	"Out and About" Homebound Transportation Assistance Fund Rules	37277	5YR	02/08/2013	2013-5/210
<u>Child and Family Services</u>					
R512-100	In-Home Services	37501	5YR	04/08/2013	Not Printed
R512-200	Child Protective Services, Intake Services	37502	5YR	04/08/2013	Not Printed
R512-201	Child Protective Services, Investigation Services	37503	5YR	04/08/2013	Not Printed
R512-202	Child Protective Services, General Allegation Categories	37504	5YR	04/08/2013	Not Printed
R512-500	Kinship Services, Placement and Background Screening	37505	5YR	04/08/2013	Not Printed

RULES INDEX

Recovery Services

R527-38	Unenforceable Cases	37229	AMD	03/25/2013	2013-4/20
R527-39	Applicant/Recipient Cooperation	37164	5YR	01/02/2013	2013-3/110
R527-56	In-kind Support	37165	5YR	01/02/2013	2013-3/110
R527-258	Enforcing Child Support When the Obligor is an Ex-Prisoner or in a Treatment Program	37113	AMD	02/22/2013	2013-2/20
R527-260	Driver License Suspension for Failure to Pay Support	37303	5YR	02/14/2013	2013-5/210
R527-301	Non-IV-D Income Withholding	37304	5YR	02/14/2013	2013-5/211
R527-302	Income Withholding Fees	37231	5YR	01/28/2013	2013-4/59
R527-305	High-Volume, Automated Administrative Enforcement in Interstate Child Support Cases	37168	5YR	01/03/2013	2013-3/111
R527-430	Administrative Notice of Lien-Levy Procedures	37169	5YR	01/03/2013	2013-3/111
R527-475	State Tax Refund Intercept	37506	5YR	04/08/2013	Not Printed

Services for People with Disabilities

R539-1	Eligibility	37110	AMD	02/13/2013	2013-1/2
R539-2	Service Coordination	37111	AMD	02/13/2013	2013-1/8

Substance Abuse and Mental Health, State Hospital

R525-2	Patient Rights	37211	5YR	01/23/2013	2013-4/56
R525-3	Medication Treatment of Patients	37224	5YR	01/24/2013	2013-4/56
R525-4	Visitors	37210	5YR	01/23/2013	2013-4/57
R525-5	Background Checks	37214	5YR	01/23/2013	2013-4/57
R525-6	Prohibited Items and Devices	37212	5YR	01/23/2013	2013-4/58
R525-7	Complaints/Suggestions/Concerns	37213	5YR	01/23/2013	2013-4/58

INSURANCE

Administration

R590-94	Rule Permitting Smoker/Nonsmoker Mortality Tables For Use In Determining Minimum Reserve Liabilities and Nonforfeiture Benefits	37412	5YR	03/15/2013	2013-7/66
R590-102	Insurance Department Fee Payment Rule	37018	AMD	01/18/2013	2012-22/131
R590-102-4	General Instructions	37220	NSC	02/15/2013	Not Printed
R590-154	Unfair Marketing Practices Rule	37421	5YR	03/20/2013	2013-8/63
R590-157	Surplus Lines Insurance Premium Tax and Stamping Fee	37171	5YR	01/07/2013	2013-3/112
R590-164	Uniform Health Billing Rule	37118	AMD	02/25/2013	2013-2/24
R590-171	Surplus Lines Procedures Rule	36846	AMD	01/22/2013	2012-20/74
R590-171	Surplus Lines Procedures Rule	36846	CPR	01/22/2013	2012-24/32
R590-171-3	Definitions	37230	NSC	02/15/2013	Not Printed
R590-218	Permitted Language for Reservation of Discretion Clauses	37176	5YR	01/09/2013	2013-3/113
R590-243	Commercial Motor Vehicle Insurance Coverage	37172	5YR	01/07/2013	2013-3/113

LABOR COMMISSION

Administration

R600-1	Declaratory Orders	37492	5YR	04/05/2013	Not Printed
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Boiler and Elevator Safety

R616-1	Coal, Gilsonite, or other Hydrocarbon Mining Certification	37493	5YR	04/05/2013	Not Printed
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Industrial Accidents

R612-1	Workers' Compensation Rules - Procedures	37129	REP	02/25/2013	2013-2/28
R612-2	Workers' Compensation Rules - Health Care Providers	37130	REP	02/25/2013	2013-2/35
R612-3	Workers' Compensation Rules - Self-Insurance	37131	REP	02/25/2013	2013-2/43
R612-4	Premium Rates	37132	REP	02/25/2013	2013-2/46
R612-5	Employee Leasing Company Workers' Compensation Insurance Policy Endorsements	37133	REP	02/25/2013	2013-2/46
R612-6	Notification of Workers' Compensation Insurance Coverage	37134	REP	02/25/2013	2013-2/48
R612-7	Impairment Ratings for Industrial Injuries and Diseases	37135	REP	02/25/2013	2013-2/49

R612-8	Procedural Guidelines for the Reemployment Act	37136	REP	02/25/2013	2013-2/50
R612-9	Designation of the Initial Assessment of Noncompliance Penalties as an "Informal" Proceeding	37137	REP	02/25/2013	2013-2/52
R612-10	HIV, Hepatitis B and C Testing and Reporting for Emergency Medical Services Providers	37138	REP	02/25/2013	2013-2/53
R612-11	Prohibition of Direct Payments by Insured Employer	37139	REP	02/25/2013	2013-2/54
R612-12	Workers' Compensation Coverage Waivers	37140	REP	02/25/2013	2013-2/55
R612-13	Proceedings to Impose Non-Reporting Penalties Against Employers	37141	REP	02/25/2013	2013-2/57
R612-100	Workers' Compensation Rules - General Provisions	37124	NEW	02/25/2013	2013-2/58
R612-200	Workers' Compensation Rules - Filing and Paying Claims	37125	NEW	02/25/2013	2013-2/62
R612-300	Workers' Compensation Rules - Medical Care	37126	NEW	02/25/2013	2013-2/66
R612-400	Workers' Compensation Insurance, Self-Insurance and Waivers	37127	NEW	02/25/2013	2013-2/76
R612-500	Procedural Guidelines for the Reemployment Act	37128	NEW	02/25/2013	2013-2/79
<b>NATURAL RESOURCES</b>					
<u>Administration</u>					
R634-1	Americans With Disabilities Complaint Procedure	37219	5YR	01/23/2013	2013-4/59
<u>Oil, Gas and Mining: Administration</u>					
R642-200	Applicability	37472	5YR	04/02/2013	Not Printed
<u>Oil, Gas and Mining: Coal</u>					
R645-101	Restrictions on State Employees	37473	5YR	04/02/2013	Not Printed
R645-102	Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction	37466	5YR	04/01/2013	2013-8/64
R645-104	Protection of Employees	37474	5YR	04/02/2013	Not Printed
R645-401	Inspection and Enforcement: Civil Penalties	37475	5YR	04/02/2013	Not Printed
<u>Oil, Gas and Mining: Non-Coal</u>					
R647-1	Minerals Regulatory Program	37467	5YR	04/01/2013	2013-8/65
R647-2	Exploration	37468	5YR	04/01/2013	2013-8/65
R647-3	Small Mining Operations	37469	5YR	04/01/2013	2013-8/66
R647-4	Large Mining Operations	37470	5YR	04/01/2013	2013-8/66
R647-5	Administrative Procedures	37471	5YR	04/01/2013	2013-8/67
R647-6	Inspection and Enforcement: Division Authority and Procedures	37476	5YR	04/02/2013	Not Printed
R647-7	Inspection and Enforcement: Civil Penalties	37477	5YR	04/02/2013	Not Printed
R647-8	Inspection and Enforcement: Individual Civil Penalties	37478	5YR	04/02/2013	Not Printed
<u>Oil, Gas and Mining: Oil and Gas</u>					
R649-1-1	Definitions	37444	NSC	04/15/2013	Not Printed
R649-3-38	Surface Owner Protection Act Provisions	36992	AMD	01/23/2013	2012-22/140
R649-6	Gas Processing and Waste Crude Oil Treatment	37479	5YR	04/02/2013	Not Printed
<u>Parks and Recreation</u>					
R651-224	Towed Devices	37242	AMD	04/12/2013	2013-4/22
R651-407	Off-Highway Vehicle Advisory Council	37519	5YR	04/12/2013	Not Printed
R651-408	Off-Highway Vehicle Education Curriculum Standards	36856	REP	01/15/2013	2012-20/77
R651-633	Special Closures or Restrictions	37205	AMD	03/14/2013	2013-3/100
<u>Water Rights</u>					
R655-5	Maps Submitted to the Division of Water Rights	37388	5YR	03/07/2013	2013-7/66

RULES INDEX

R655-7	Administrative Procedures for Notifying the State Engineer of Sewage Effluent Use or Change in the Point of Discharge for Sewage Effluent	37119	REP	03/07/2013	2013-2/81
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Wildlife Resources

R657-3	Collection, Importation, Transportation, and Possession of Animals	37384	5YR	03/05/2013	2013-7/67
R657-13	Taking Fish and Crayfish	37069	AMD	01/22/2013	2012-24/29
R657-37	Cooperative Wildlife Management Units for Big Game or Turkey	37097	AMD	02/07/2013	2013-1/11
R657-58	Fishing Contests and Clinics	37203	5YR	01/15/2013	2013-3/114

PARDONS (BOARD OF)

Administration

R671-312	Commutation Hearings for Death Penalty Cases	37341	5YR	02/15/2013	2013-5/212
R671-509	Parole Progress / Violation Reports	37342	5YR	02/15/2013	2013-5/212
R671-510	Evidence for Issuance of Warrants	37343	5YR	02/15/2013	2013-5/212
R671-512	Execution of the Warrant	37344	5YR	02/15/2013	2013-5/213
R671-513	Expedited Determination on Parolee Challenge to Probable Cause	37346	5YR	02/15/2013	2013-5/214
R671-514	Waiver and Pleas of Guilt	37347	5YR	02/15/2013	2013-5/214
R671-515	Timeliness of Parole Revocation Hearings	37348	5YR	02/15/2013	2013-5/215
R671-516	Parole Revocation Hearings	37349	5YR	02/15/2013	2013-5/215
R671-517	Evidentiary Hearings and Proceedings	37350	5YR	02/15/2013	2013-5/216
R671-518	Conduct of Proceedings When a Criminal Charge Results in Conviction	37351	5YR	02/15/2013	2013-5/216
R671-519	Proceedings When Criminal Charges Result in Acquittal	37352	5YR	02/15/2013	2013-5/217
R671-520	Treatment of Confidential Testimony	37353	5YR	02/15/2013	2013-5/217
R671-522	Continuances Due to Pending Criminal Charges	37354	5YR	02/15/2013	2013-5/218

PROFESSIONAL PRACTICES ADVISORY COMMISSION

Administration

R686-100	Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings	37243	5YR	02/01/2013	2013-4/60
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PUBLIC SAFETY

Criminal Investigations and Technical Services, Criminal Identification

R722-320	Undercover Identification	37226	5YR	01/24/2013	2013-4/61
R722-320	Undercover Identification	37227	NSC	02/15/2013	Not Printed
R722-360	Certificate of Removal from the Sex Offender and Kidnap Offender Registry	37232	NEW	03/25/2013	2013-4/46
R722-900	Review and Challenge of Criminal Record	37514	5YR	04/10/2013	Not Printed

Fire Marshal

R710-5	Automatic Fire Sprinkler System Inspecting and Testing	37443	5YR	03/25/2013	2013-8/67
R710-12	Hazardous Materials Training and Certification	37390	5YR	03/08/2013	2013-7/67

Homeland Security

R704-2	Statewide Mutual Aid Act Activation	37117	NEW	02/25/2013	2013-2/83
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PUBLIC SERVICE COMMISSION

Administration

R746-313	Electric Service Reliability	37116	AMD	02/21/2013	2013-2/87
R746-320	Uniform Rules Governing Natural Gas Service	37041	AMD	01/07/2013	2012-23/48
R746-330	Rules for Water and Sewer Utilities Operating in Utah	37385	5YR	03/05/2013	2013-7/68
R746-332	Depreciation Rates for Water Utilities	37451	5YR	03/28/2013	2013-8/68
R746-347	Extended Area Service (EAS)	37386	5YR	03/05/2013	2013-7/68

R746-402	Rules Governing Reports of Accidents by Electric, Gas, Telephone, and Water Utilities	37452	5YR	03/28/2013	2013-8/68
R746-405	Filing of Tariffs for Gas, Electric, Telephone, and Water Utilities	37450	5YR	03/28/2013	2013-8/69

REGENTS (BOARD OF)

University of Utah, Administration

R805-1	Operating Regulations for Bicycles, Skateboards and Scooters	37407	5YR	03/12/2013	2013-7/69
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University of Utah, Commuter Services

R810-1-8	University Vehicle Parking	37096	AMD	03/21/2013	2013-1/12
R810-1-14	Living In A Motor Vehicle On Campus	37098	AMD	03/21/2013	2013-1/13
R810-2-1	Parking Meters	37092	AMD	03/21/2013	2013-1/14
R810-12	Bicycles, Skateboards and Other Toy Vehicles	37387	EXD	03/07/2013	2013-7/71

TAX COMMISSION

Administration

R861-1A-12	Policies and Procedures Regarding Public Disclosure Pursuant to Utah Code Ann. Sections 41-3-209, 59-1-210, 59-1-403, and 59-1-405	36991	AMD	01/10/2013	2012-22/144
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	37104	AMD	02/21/2013	2013-1/15
R861-1A-37	Provisions Relating to Disclosure of Commercial Information Pursuant to Utah Code Ann. Section 59-1-404	37106	AMD	02/21/2013	2013-1/17
R861-1A-46	Procedures for Purchaser Refund Requests Pursuant to Utah Code Ann. Sections 59-1-1410 and 59-12-110	37107	AMD	02/21/2013	2013-1/18

Auditing

R865-9I-13	Pass-Through Entity Withholding Pursuant to Utah Code Ann. Sections 59-10-116, 59-10-117, 59-10-118, 59-10-1403.2, and 59-10-1405	37108	AMD	02/21/2013	2013-1/20
R865-9I-46	Medical Savings Account Administration Pursuant to Utah Code Ann. Sections 31A-32a-106, 59-10-114, and 59-10-1021	37178	NSC	01/31/2013	Not Printed

Property Tax

R884-24P-67	Information Required for Valuation of Low-Income Housing Pursuant to Utah Code Ann. Sections 59-2-102 and 59-2-301.3	37109	AMD	02/21/2013	2013-1/22
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TRANSPORTATION

Administration

R907-64	Longitudinal and Wireless Access to Interstate Highway Rights-of-Way for Installation of Telecommunications Facilities	37094	R&R	02/07/2013	2013-1/23
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WORKFORCE SERVICES

Employment Development

R986-700-710	Income Limits for ES CC	37025	AMD	01/02/2013	2012-22/146
R986-900-902	Options and Waivers	37067	AMD	01/08/2013	2012-23/50

Unemployment Insurance

R994-201	Definition of Terms in Employment Security Act	37518	5YR	04/11/2013	Not Printed
R994-305	Collection of Contributions	37066	AMD	01/08/2013	2012-23/52
R994-305-1201	Offer in Compromise	37023	AMD	01/02/2013	2012-22/147
R994-406	Fraud, Fault and Nonfault Overpayments	37024	AMD	01/02/2013	2012-22/148
R994-406-301	Claimant Fault	37238	AMD	04/02/2013	2013-4/48

**RULES INDEX - BY KEYWORD (SUBJECT)**

**ABBREVIATIONS**

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>acquit</u> Pardons (Board Of), Administration	37352	R671-519	5YR	02/15/2013	2013-5/217
<u>adjudicative procedures</u> Environmental Quality, Administration	36554 36554 36553 36553	R305-6 R305-6 R305-7 R305-7	REP CPR NEW CPR	01/31/2013 01/31/2013 01/31/2013 01/31/2013	2012-16/28 2013-1/32 2012-16/45 2013-1/32
<u>adjudicative proceedings</u> Environmental Quality, Radiation Control Environmental Quality, Water Quality	37192 37239	R313-17 R317-9	AMD 5YR	03/19/2013 01/31/2013	2013-3/40 2013-4/51
<u>administrative fines</u> Commerce, Securities	37042	R164-31-1	AMD	01/08/2013	2012-23/26
<u>administrative law</u> Human Services, Recovery Services	37113	R527-258	AMD	02/22/2013	2013-2/20
<u>administrative procedures</u> Commerce, Real Estate Crime Victim Reparations, Administration Environmental Quality, Administration Environmental Quality, Radiation Control Labor Commission, Industrial Accidents	36973 37063 37167 36554 36554 36553 36553 37192 37138 37139 37140 37141 37124	R162-2g R270-2 R270-2 R305-6 R305-6 R305-7 R305-7 R313-17 R612-10 R612-11 R612-12 R612-13 R612-100	AMD AMD NSC REP CPR NEW CPR AMD REP REP REP REP NEW	01/02/2013 01/07/2013 01/30/2013 01/31/2013 01/31/2013 01/31/2013 01/31/2013 03/19/2013 02/25/2013 02/25/2013 02/25/2013 02/25/2013 02/25/2013	2012-22/19 2012-23/33 Not Printed 2012-16/28 2013-1/32 2012-16/45 2013-1/32 2013-3/40 2013-2/53 2013-2/54 2013-2/55 2013-2/57 2013-2/58
<u>administrative proceedings</u> Environmental Quality, Water Quality Labor Commission, Industrial Accidents	37239 37129 37125	R317-9 R612-1 R612-200	5YR REP NEW	01/31/2013 02/25/2013 02/25/2013	2013-4/51 2013-2/28 2013-2/62
<u>adult education</u> Education, Administration	37404	R277-702	5YR	03/12/2013	2013-7/64
<u>aerospace</u> Environmental Quality, Air Quality	36737 36737 37237	R307-355 R307-355 R307-355-5	NEW CPR NSC	02/01/2013 02/01/2013 02/15/2013	2012-19/91 2013-1/82 Not Printed
<u>agent of the state</u> Public Safety, Homeland Security	37117	R704-2	NEW	02/25/2013	2013-2/83



<u>aggregate</u>					
Environmental Quality, Air Quality	36740	R307-312	NEW	02/01/2013	2012-19/45
	36740	R307-312	CPR	02/01/2013	2013-1/47
<u>agriculture law</u>					
Agriculture and Food, Animal Industry	37247	R58-19	AMD	03/25/2013	2013-4/13
<u>air medical services</u>					
Health, Family Health and Preparedness, Emergency Medical Services	37409	R426-2	EMR	03/14/2013	2013-7/55
<u>air pollution</u>					
Environmental Quality, Air Quality	36723	R307-101-2	AMD	02/01/2013	2012-19/29
	36723	R307-101-2	CPR	02/01/2013	2013-1/38
	37261	R307-102	5YR	02/06/2013	2013-5/191
	37260	R307-115	5YR	02/06/2013	2013-5/192
	37259	R307-170	5YR	02/06/2013	2013-5/192
	36481	R307-208	NEW	04/10/2013	2012-15/12
	36481	R307-208	CPR	04/10/2013	2012-23/56
	36481	R307-208	CPR	04/10/2013	2013-5/184
	37258	R307-220	5YR	02/06/2013	2013-5/193
	37257	R307-221	5YR	02/06/2013	2013-5/194
	37256	R307-222	5YR	02/06/2013	2013-5/194
	37255	R307-223	5YR	02/06/2013	2013-5/195
	37254	R307-224	5YR	02/06/2013	2013-5/195
	37253	R307-250	5YR	02/06/2013	2013-5/196
	36741	R307-307	AMD	02/01/2013	2012-19/42
	36741	R307-307	CPR	02/01/2013	2013-1/45
	37234	R307-307	NSC	02/15/2013	Not Printed
	36740	R307-312	NEW	02/01/2013	2012-19/45
	36740	R307-312	CPR	02/01/2013	2013-1/47
	36725	R307-340	REP	02/01/2013	2012-19/49
	36725	R307-340	CPR	02/01/2013	2013-1/48
	36727	R307-345	NEW	02/01/2013	2012-19/67
	36727	R307-345	CPR	02/01/2013	2013-1/54
	36728	R307-346	NEW	02/01/2013	2012-19/69
	36728	R307-346	CPR	02/01/2013	2013-1/57
	36729	R307-347	NEW	02/01/2013	2012-19/71
	36729	R307-347	CPR	02/01/2013	2013-1/59
	36730	R307-348	NEW	02/01/2013	2012-19/73
	36730	R307-348	CPR	02/01/2013	2013-1/61
	36731	R307-349	NEW	02/01/2013	2012-19/74
	36731	R307-349	CPR	02/01/2013	2013-1/63
	36732	R307-350	NEW	02/01/2013	2012-19/76
	36732	R307-350	CPR	02/01/2013	2013-1/65
	36733	R307-351	NEW	02/01/2013	2012-19/80
	36733	R307-351	CPR	02/01/2013	2013-1/69
	37235	R307-351-4	NSC	02/15/2013	Not Printed
	36734	R307-352	NEW	02/01/2013	2012-19/84
	36734	R307-352	CPR	02/01/2013	2013-1/73
	36736	R307-354	NEW	02/01/2013	2012-19/88
	36736	R307-354	CPR	02/01/2013	2013-1/79
	36737	R307-355	NEW	02/01/2013	2012-19/91
	36737	R307-355	CPR	02/01/2013	2013-1/82
	37237	R307-355-5	NSC	02/15/2013	Not Printed
	37037	R307-401-15	AMD	02/07/2013	2012-23/40
	37236	R307-401-15	NSC	02/15/2013	Not Printed
	37252	R307-801	5YR	02/06/2013	2013-5/197
<u>air travel</u>					
Administrative Services, Finance	37523	R25-7	5YR	04/15/2013	Not Printed
<u>allegations</u>					
Pardons (Board Of), Administration	37347	R671-514	5YR	02/15/2013	2013-5/214
<u>allowance</u>					
Administrative Services, Finance	37524	R25-8	5YR	04/15/2013	Not Printed

RULES INDEX

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<u>amendments</u>						
Health, Center for Health Data, Vital Records and Statistics	37424	R436-3	5YR	03/21/2013	2013-8/57	
<u>animal protection</u>						
Natural Resources, Wildlife Resources	37384	R657-3	5YR	03/05/2013	2013-7/67	
<u>appellate procedures</u>						
Crime Victim Reparations, Administration	37063	R270-2	AMD	01/07/2013	2012-23/33	
	37167	R270-2	NSC	01/30/2013	Not Printed	
<u>applications</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	37215	R414-302	5YR	01/23/2013	2013-4/53	
	37223	R414-308	5YR	01/23/2013	2013-4/55	
Natural Resources, Water Rights	37388	R655-5	5YR	03/07/2013	2013-7/66	
<u>appointment to office</u>						
Health, Center for Health Data, Vital Records and Statistics	37418	R436-1	5YR	03/19/2013	2013-8/55	
<u>appraisals</u>						
Tax Commission, Property Tax	37109	R884-24P-67	AMD	02/21/2013	2013-1/22	
<u>approval orders</u>						
Environmental Quality, Air Quality	37037	R307-401-15	AMD	02/07/2013	2012-23/40	
	37236	R307-401-15	NSC	02/15/2013	Not Printed	
<u>architects</u>						
Commerce, Occupational and Professional Licensing	37073	R156-3a-102	AMD	01/24/2013	2012-24/6	
<u>asbestos</u>						
Environmental Quality, Air Quality	37252	R307-801	5YR	02/06/2013	2013-5/197	
<u>asbestos hazard emergency response</u>						
Environmental Quality, Air Quality	37252	R307-801	5YR	02/06/2013	2013-5/197	
<u>asphalt</u>						
Environmental Quality, Air Quality	36740	R307-312	NEW	02/01/2013	2012-19/45	
	36740	R307-312	CPR	02/01/2013	2013-1/47	
<u>automatic fire sprinklers</u>						
Public Safety, Fire Marshal	37443	R710-5	5YR	03/25/2013	2013-8/67	
<u>automotive refinishing</u>						
Environmental Quality, Air Quality	36736	R307-354	NEW	02/01/2013	2012-19/88	
	36736	R307-354	CPR	02/01/2013	2013-1/79	
<u>background checks</u>						
Human Services, Substance Abuse and Mental Health, State Hospital	37214	R525-5	5YR	01/23/2013	2013-4/57	
<u>background screening</u>						
Health, Family Health and Preparedness, Licensing	37441	R432-35	5YR	03/25/2013	2013-8/55	
<u>beam limitation</u>						
Environmental Quality, Radiation Control	37183	R313-28	NSC	01/31/2013	Not Printed	
<u>benefits</u>						
Labor Commission, Industrial Accidents	37131	R612-3	REP	02/25/2013	2013-2/43	
<u>bicycles</u>						
Regents (Board Of), University of Utah, Administration	37407	R805-1	5YR	03/12/2013	2013-7/69	

<u>board meetings</u>						
Environmental Quality, Administration	37360	R305-2	5YR	02/25/2013	2013-6/50	
<u>board member recusal</u>						
Environmental Quality, Administration	36776	R305-9	NEW	02/22/2013	2012-19/28	
	36776	R305-9	CPR	02/22/2013	2013-2/94	
<u>boards</u>						
Administrative Services, Finance	37521	R25-5	5YR	04/15/2013	Not Printed	
<u>boating</u>						
Natural Resources, Parks and Recreation	37242	R651-224	AMD	04/12/2013	2013-4/22	
<u>brachytherapy</u>						
Environmental Quality, Radiation Control	37184	R313-32	NSC	01/31/2013	Not Printed	
<u>broad scope</u>						
Environmental Quality, Radiation Control	37195	R313-22	AMD	03/19/2013	2013-3/56	
<u>broadband</u>						
Governor, Economic Development	37206	R357-2	EXT	01/16/2013	2013-4/63	
<u>budgeting</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	37217	R414-304	5YR	01/23/2013	2013-4/54	
<u>bulls</u>						
Agriculture and Food, Animal Industry	36962	R58-21	AMD	01/04/2013	2012-22/16	
<u>camp resort</u>						
Commerce, Real Estate	37076	R162-57a	AMD	04/02/2013	2012-24/14	
<u>capital punishment</u>						
Pardons (Board Of), Administration	37341	R671-312	5YR	02/15/2013	2013-5/212	
<u>career and technical education</u>						
Education, Administration	37399	R277-518	5YR	03/12/2013	2013-7/61	
<u>case management</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	37391	R414-6	5YR	03/08/2013	2013-7/65	
<u>cattle</u>						
Agriculture and Food, Animal Industry	36962	R58-21	AMD	01/04/2013	2012-22/16	
<u>certificate of removal</u>						
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	37232	R722-360	NEW	03/25/2013	2013-4/46	
<u>certification</u>						
Labor Commission, Boiler and Elevator Safety	37493	R616-1	5YR	04/05/2013	Not Printed	
<u>certified nurse midwife</u>						
Commerce, Occupational and Professional Licensing	37071	R156-44a	AMD	01/22/2013	2012-24/11	
<u>charbroilers</u>						
Environmental Quality, Air Quality	36480	R307-303	NEW	04/10/2013	2012-15/13	
	36480	R307-303	CPR	04/10/2013	2012-23/60	
	36480	R307-303	CPR	04/10/2013	2013-5/186	
<u>child abuse</u>						
Human Services, Child and Family Services	37502	R512-200	5YR	04/08/2013	Not Printed	
	37503	R512-201	5YR	04/08/2013	Not Printed	
	37504	R512-202	5YR	04/08/2013	Not Printed	
<u>child care</u>						
Workforce Services, Employment Development	37025	R986-700-710	AMD	01/02/2013	2012-22/146	

RULES INDEX

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child support

Human Services, Recovery Services	37229	R527-38	AMD	03/25/2013	2013-4/20
	37164	R527-39	5YR	01/02/2013	2013-3/110
	37165	R527-56	5YR	01/02/2013	2013-3/110
	37113	R527-258	AMD	02/22/2013	2013-2/20
	37303	R527-260	5YR	02/14/2013	2013-5/210
	37304	R527-301	5YR	02/14/2013	2013-5/211
	37231	R527-302	5YR	01/28/2013	2013-4/59
	37168	R527-305	5YR	01/03/2013	2013-3/111
	37169	R527-430	5YR	01/03/2013	2013-3/111
	37506	R527-475	5YR	04/08/2013	Not Printed

child welfare

Human Services, Child and Family Services	37501	R512-100	5YR	04/08/2013	Not Printed
	37502	R512-200	5YR	04/08/2013	Not Printed
	37503	R512-201	5YR	04/08/2013	Not Printed
	37504	R512-202	5YR	04/08/2013	Not Printed
	37505	R512-500	5YR	04/08/2013	Not Printed

chronically ill

Corrections, Administration	37389	R251-114	5YR	03/07/2013	2013-7/61
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civil rights

Natural Resources, Administration	37219	R634-1	5YR	01/23/2013	2013-4/59
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client rights

Health, Health Care Financing, Coverage and Reimbursement Policy	37221	R414-301	5YR	01/23/2013	2013-4/52
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coal mines

Natural Resources, Oil, Gas and Mining; Coal	37473	R645-101	5YR	04/02/2013	Not Printed
	37466	R645-102	5YR	04/01/2013	2013-8/64
	37474	R645-104	5YR	04/02/2013	Not Printed
	37475	R645-401	5YR	04/02/2013	Not Printed

coatings

Environmental Quality, Air Quality	36731	R307-349	NEW	02/01/2013	2012-19/74
	36731	R307-349	CPR	02/01/2013	2013-1/63
	36732	R307-350	NEW	02/01/2013	2012-19/76
	36732	R307-350	CPR	02/01/2013	2013-1/65
	36736	R307-354	NEW	02/01/2013	2012-19/88
	36736	R307-354	CPR	02/01/2013	2013-1/79
	36737	R307-355	CPR	02/01/2013	2013-1/82
	37237	R307-355-5	NSC	02/15/2013	Not Printed

coil coatings

Environmental Quality, Air Quality	36734	R307-352	NEW	02/01/2013	2012-19/84
	36734	R307-352	CPR	02/01/2013	2013-1/73

comment

Environmental Quality, Radiation Control	37192	R313-17	AMD	03/19/2013	2013-3/40
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commercial cooking

Environmental Quality, Air Quality	36480	R307-303	NEW	04/10/2013	2012-15/13
	36480	R307-303	CPR	04/10/2013	2012-23/60
	36480	R307-303	CPR	04/10/2013	2013-5/186

commercial motor vehicle insurance

Insurance, Administration	37172	R590-243	5YR	01/07/2013	2013-3/113
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complaints

Human Services, Substance Abuse and Mental Health, State Hospital	37213	R525-7	5YR	01/23/2013	2013-4/58
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<u>concerns</u>						
Human Services, Substance Abuse and Mental Health, State Hospital	37213	R525-7	5YR	01/23/2013	2013-4/58	
<u>concrete</u>						
Environmental Quality, Air Quality	36740	R307-312	NEW	02/01/2013	2012-19/45	
	36740	R307-312	CPR	02/01/2013	2013-1/47	
<u>conduct</u>						
Professional Practices Advisory Commission, Administration	37243	R686-100	5YR	02/01/2013	2013-4/60	
<u>confidential testimony</u>						
Pardons (Board Of), Administration	37353	R671-520	5YR	02/15/2013	2013-5/217	
<u>confidentiality</u>						
Education, Administration	37144	R277-487	AMD	02/21/2013	2013-2/7	
<u>confidentiality of information</u>						
Environmental Quality, Air Quality	37261	R307-102	5YR	02/06/2013	2013-5/191	
<u>conflict of interest</u>						
Environmental Quality, Administration	36776	R305-9	NEW	02/22/2013	2012-19/28	
	36776	R305-9	CPR	02/22/2013	2013-2/94	
<u>congregate meals</u>						
Human Services, Aging and Adult Services	37228	R510-104-11	AMD	04/15/2013	2013-4/18	
<u>contamination</u>						
Environmental Quality, Radiation Control	37191	R313-15	AMD	03/19/2013	2013-3/18	
<u>continuing</u>						
Pardons (Board Of), Administration	37354	R671-522	5YR	02/15/2013	2013-5/218	
<u>continuous monitoring</u>						
Environmental Quality, Air Quality	37259	R307-170	5YR	02/06/2013	2013-5/192	
<u>controlled substance database</u>						
Commerce, Occupational and Professional Licensing	37039	R156-37f	NEW	01/08/2013	2012-23/21	
<u>controlled substances</u>						
Commerce, Occupational and Professional Licensing	37040	R156-37	AMD	01/08/2013	2012-23/18	
	37175	R156-37-502	NSC	01/30/2013	Not Printed	
<u>conviction</u>						
Pardons (Board Of), Administration	37351	R671-518	5YR	02/15/2013	2013-5/216	
<u>cooperative wildlife management unit</u>						
Natural Resources, Wildlife Resources	37097	R657-37	AMD	02/07/2013	2013-1/11	
<u>copying processes</u>						
Health, Center for Health Data, Vital Records and Statistics	37431	R436-13	5YR	03/21/2013	2013-8/61	
	37432	R436-14	5YR	03/21/2013	2013-8/61	
<u>costs</u>						
Administrative Services, Finance	37522	R25-6	5YR	04/15/2013	Not Printed	
<u>coverage groups</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	37173	R414-303	EMR	01/07/2013	2013-3/103	
	37216	R414-303	5YR	01/23/2013	2013-4/53	
<u>criminal charges</u>						
Pardons (Board Of), Administration	37351	R671-518	5YR	02/15/2013	2013-5/216	

RULES INDEX

---

criminal history records information

Public Safety, Criminal Investigations and Technical Services, Criminal Identification 37514 R722-900 5YR 04/10/2013 Not Printed

criminal investigation

Public Safety, Criminal Investigations and Technical Services, Criminal Identification 37226 R722-320 5YR 01/24/2013 2013-4/61  
37227 R722-320 NSC 02/15/2013 Not Printed

curricula

Education, Administration 37403 R277-700 5YR 03/12/2013 2013-7/63

custody of children

Health, Center for Health Data, Vital Records and Statistics 37418 R436-1 5YR 03/19/2013 2013-8/55  
37423 R436-2 5YR 03/21/2013 2013-8/56

dairy inspections

Agriculture and Food, Regulatory Services 37027 R70-310 AMD 01/29/2013 2012-23/6  
36915 R70-320-18 AMD 01/29/2013 2012-21/8  
36914 R70-330 AMD 01/29/2013 2012-21/9

data standards

Education, Administration 37145 R277-484 AMD 02/21/2013 2013-2/4

deadlines

Education, Administration 37145 R277-484 AMD 02/21/2013 2013-2/4

death

Health, Center for Health Data, Vital Records and Statistics 37426 R436-7 5YR 03/21/2013 2013-8/58

declaratory orders

Labor Commission, Administration 37492 R600-1 5YR 04/05/2013 Not Printed

decommissioning

Environmental Quality, Radiation Control 37195 R313-22 AMD 03/19/2013 2013-3/56

definitions

Environmental Quality, Air Quality 36723 R307-101-2 AMD 02/01/2013 2012-19/29  
36723 R307-101-2 CPR 02/01/2013 2013-1/38  
Environmental Quality, Radiation Control 37189 R313-12 AMD 03/19/2013 2013-3/6  
Workforce Services, Unemployment Insurance 37518 R994-201 5YR 04/11/2013 Not Printed

degreasing

Environmental Quality, Air Quality 36737 R307-355 NEW 02/01/2013 2012-19/91

dental

Environmental Quality, Radiation Control 37183 R313-28 NSC 01/31/2013 Not Printed

depleted uranium

Environmental Quality, Radiation Control 37180 R313-25 NSC 01/31/2013 Not Printed

developmental disabilities

Tax Commission, Administration 36991 R861-1A-12 AMD 01/10/2013 2012-22/144  
37104 R861-1A-26 AMD 02/21/2013 2013-1/15  
37106 R861-1A-37 AMD 02/21/2013 2013-1/17  
37107 R861-1A-46 AMD 02/21/2013 2013-1/18

dietitians

Commerce, Occupational and Professional Licensing 37273 R156-49 5YR 02/07/2013 2013-5/189

disabilities

Human Services, Services for People with Disabilities 37110 R539-1 AMD 02/13/2013 2013-1/2

disabled

Human Services, Aging and Adult Services 37277 R510-105 5YR 02/08/2013 2013-5/210

<u>discharge</u>					
Environmental Quality, Water Quality	37241	R317-14	5YR	01/31/2013	2013-4/52
<u>disclosure requirements</u>					
Tax Commission, Administration	36991	R861-1A-12	AMD	01/10/2013	2012-22/144
	37104	R861-1A-26	AMD	02/21/2013	2013-1/15
	37106	R861-1A-37	AMD	02/21/2013	2013-1/17
	37107	R861-1A-46	AMD	02/21/2013	2013-1/18
<u>discretion clauses</u>					
Insurance, Administration	37176	R590-218	5YR	01/09/2013	2013-3/113
<u>disease control</u>					
Agriculture and Food, Animal Industry	37248	R58-6	R&R	03/25/2013	2013-4/6
	36962	R58-21	AMD	01/04/2013	2012-22/16
<u>diversion programs</u>					
Commerce, Occupational and Professional Licensing	37395	R156-1	NSC	04/01/2013	Not Printed
	37199	R156-1-102	AMD	03/11/2013	2013-3/2
<u>domestic violence</u>					
Human Services, Child and Family Services	37502	R512-200	5YR	04/08/2013	Not Printed
	37503	R512-201	5YR	04/08/2013	Not Printed
	37504	R512-202	5YR	04/08/2013	Not Printed
<u>drinking water</u>					
Environmental Quality, Drinking Water	36562	R309-515-6	AMD	01/16/2013	2012-16/66
	36562	R309-515-6	CPR	01/16/2013	2012-23/70
<u>driver education</u>					
Education, Administration	37498	R277-746	5YR	04/08/2013	Not Printed
<u>driver license</u>					
Human Services, Recovery Services	37303	R527-260	5YR	02/14/2013	2013-5/210
<u>education</u>					
Education, Administration	37405	R277-709	5YR	03/12/2013	2013-7/64
	37244	R277-709-3	NSC	02/15/2013	Not Printed
<u>educational facilities</u>					
Education, Administration	37278	R277-445-3	AMD	04/08/2013	2013-5/13
<u>educational testing</u>					
Education, Administration	37404	R277-702	5YR	03/12/2013	2013-7/64
<u>educator licensing</u>					
Education, Administration	37058	R277-502	AMD	01/07/2013	2012-23/34
	37146	R277-502	AMD	02/21/2013	2013-2/10
<u>educators</u>					
Education, Administration	37279	R277-498	NEW	04/08/2013	2013-5/14
	37147	R277-517	NEW	02/21/2013	2013-2/15
	37359	R277-517-5	NSC	03/15/2013	Not Printed
	37399	R277-518	5YR	03/12/2013	2013-7/61
<u>effective date</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	37174	R414-306	EMR	01/07/2013	2013-3/105
	37218	R414-306	5YR	01/23/2013	2013-4/55
<u>effluent standards</u>					
Environmental Quality, Water Quality	37240	R317-13	5YR	01/31/2013	2013-4/51
<u>elderly</u>					
Human Services, Aging and Adult Services	37228	R510-104-11	AMD	04/15/2013	2013-4/18

RULES INDEX

---

<u>electric generating unit</u>					
Environmental Quality, Air Quality	37254	R307-224	5YR	02/06/2013	2013-5/195
<u>electric generating units</u>					
Environmental Quality, Air Quality	37258	R307-220	5YR	02/06/2013	2013-5/193
<u>electronic meetings</u>					
Environmental Quality, Administration	37360	R305-2	5YR	02/25/2013	2013-6/50
<u>electronic prescribing</u>					
Commerce, Occupational and Professional Licensing	37202	R156-82	NEW	03/11/2013	2013-3/5
	37396	R156-82	NSC	04/01/2013	Not Printed
<u>eligibility</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	37215	R414-302	5YR	01/23/2013	2013-4/53
	37223	R414-308	5YR	01/23/2013	2013-4/55
<u>emergency medical services</u>					
Health, Family Health and Preparedness, Emergency Medical Services	37397	R426-2	EXD	02/24/2013	2013-7/71
	37409	R426-2	EMR	03/14/2013	2013-7/55
	37398	R426-6	EXD	03/01/2013	2013-7/71
	37408	R426-6	EMR	03/14/2013	2013-7/59
<u>emission controls</u>					
Environmental Quality, Air Quality	36725	R307-340	REP	02/01/2013	2012-19/49
	36725	R307-340	CPR	02/01/2013	2013-1/48
	36727	R307-345	NEW	02/01/2013	2012-19/67
	36727	R307-345	CPR	02/01/2013	2013-1/54
	36728	R307-346	NEW	02/01/2013	2012-19/69
	36728	R307-346	CPR	02/01/2013	2013-1/57
	36729	R307-347	NEW	02/01/2013	2012-19/71
	36729	R307-347	CPR	02/01/2013	2013-1/59
	36730	R307-348	NEW	02/01/2013	2012-19/73
	36730	R307-348	CPR	02/01/2013	2013-1/61
	36731	R307-349	NEW	02/01/2013	2012-19/74
	36731	R307-349	CPR	02/01/2013	2013-1/63
	36732	R307-350	NEW	02/01/2013	2012-19/76
	36732	R307-350	CPR	02/01/2013	2013-1/65
	36734	R307-352	NEW	02/01/2013	2012-19/84
	36734	R307-352	CPR	02/01/2013	2013-1/73
<u>employers</u>					
Labor Commission, Industrial Accidents	37133	R612-5	REP	02/25/2013	2013-2/46
<u>EMS competitive grants</u>					
Health, Family Health and Preparedness, Emergency Medical Services	37408	R426-6	EMR	03/14/2013	2013-7/59
<u>enforcement</u>					
Environmental Quality, Radiation Control	37190	R313-14	AMD	03/19/2013	2013-3/14
<u>enrollment</u>					
Education, Administration	37496	R277-485	5YR	04/08/2013	Not Printed
<u>enterprise zones</u>					
Tax Commission, Auditing	37108	R865-9I-13	AMD	02/21/2013	2013-1/20
	37178	R865-9I-46	NSC	01/31/2013	Not Printed
<u>environmental analysis</u>					
Environmental Quality, Radiation Control	37196	R313-24	AMD	03/19/2013	2013-3/74
<u>environmental protection</u>					
Environmental Quality, Air Quality	37260	R307-115	5YR	02/06/2013	2013-5/192



<u>evaluations</u>						
Education, Administration	37280	R277-532	NEW	04/08/2013	2013-5/16	
<u>evidence</u>						
Health, Center for Health Data, Vital Records and Statistics	37425	R436-4	5YR	03/21/2013	2013-8/57	
<u>evidentiary</u>						
Pardons (Board Of), Administration	37350	R671-517	5YR	02/15/2013	2013-5/216	
<u>evidentiary restrictions</u>						
Commerce, Occupational and Professional Licensing	37395 37199	R156-1 R156-1-102	NSC AMD	04/01/2013 03/11/2013	Not Printed 2013-3/2	
<u>exceptional children</u>						
Education, Administration	37499	R277-751	5YR	04/08/2013	Not Printed	
<u>exemptions</u>						
Environmental Quality, Radiation Control	37189 37194	R313-12 R313-19	AMD AMD	03/19/2013 03/19/2013	2013-3/6 2013-3/45	
<u>expelled</u>						
Education, Administration	37495	R277-483	5YR	04/08/2013	Not Printed	
<u>extended area service</u>						
Public Service Commission, Administration	37386	R746-347	5YR	03/05/2013	2013-7/68	
<u>extracurricular activities</u>						
Education, Administration	37401	R277-605	5YR	03/12/2013	2013-7/62	
<u>eye exams</u>						
Health, Disease Control and Prevention, Health Promotion	37028	R384-201	NEW	02/20/2013	2012-23/42	
<u>fabric coating</u>						
Environmental Quality, Air Quality	36727 36727	R307-345 R307-345	NEW CPR	02/01/2013 02/01/2013	2012-19/67 2013-1/54	
<u>facilities use</u>						
Capitol Preservation Board (State), Administration	37064	R131-2	AMD	01/07/2013	2012-23/9	
<u>facility notice</u>						
Corrections, Administration	37389	R251-114	5YR	03/07/2013	2013-7/61	
<u>fathers</u>						
Health, Center for Health Data, Vital Records and Statistics	37424	R436-3	5YR	03/21/2013	2013-8/57	
<u>fees</u>						
Environmental Quality, Radiation Control	37188	R313-70	NSC	01/31/2013	Not Printed	
Health, Center for Health Data, Vital Records and Statistics	37433	R436-15	5YR	03/21/2013	2013-8/62	
Labor Commission, Industrial Accidents	37130 37126	R612-2 R612-300	REP NEW	02/25/2013 02/25/2013	2013-2/35 2013-2/66	
<u>filing deadlines</u>						
Labor Commission, Industrial Accidents	37129 37125	R612-1 R612-200	REP NEW	02/25/2013 02/25/2013	2013-2/28 2013-2/62	
<u>film coating</u>						
Environmental Quality, Air Quality	36726 36726	R307-344 R307-344	NEW CPR	02/01/2013 02/01/2013	2012-19/65 2013-1/52	
<u>finance</u>						
Administrative Services, Finance	37522 37524	R25-6 R25-8	5YR 5YR	04/15/2013 04/15/2013	Not Printed Not Printed	

RULES INDEX

---

<u>financial disclosures</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	37217	R414-304	5YR	01/23/2013	2013-4/54	
<u>fish</u>						
Natural Resources, Wildlife Resources	37069	R657-13	AMD	01/22/2013	2012-24/29	
	37203	R657-58	5YR	01/15/2013	2013-3/114	
<u>fishing</u>						
Natural Resources, Wildlife Resources	37069	R657-13	AMD	01/22/2013	2012-24/29	
	37203	R657-58	5YR	01/15/2013	2013-3/114	
<u>flat wood paneling</u>						
Environmental Quality, Air Quality	36731	R307-349	NEW	02/01/2013	2012-19/74	
	36731	R307-349	CPR	02/01/2013	2013-1/63	
<u>foil coating</u>						
Environmental Quality, Air Quality	36726	R307-344	NEW	02/01/2013	2012-19/65	
	36726	R307-344	CPR	02/01/2013	2013-1/52	
<u>food stamps</u>						
Workforce Services, Employment Development	37067	R986-900-902	AMD	01/08/2013	2012-23/50	
<u>foods</u>						
Education, Administration	37406	R277-719	5YR	03/12/2013	2013-7/65	
<u>funeral industries</u>						
Health, Center for Health Data, Vital Records and Statistics	37426	R436-7	5YR	03/21/2013	2013-8/58	
	37427	R436-8	5YR	03/21/2013	2013-8/58	
	37428	R436-9	5YR	03/21/2013	2013-8/59	
<u>general conformity</u>						
Environmental Quality, Air Quality	37260	R307-115	5YR	02/06/2013	2013-5/192	
<u>general licenses</u>						
Environmental Quality, Radiation Control	37181	R313-21	NSC	01/31/2013	Not Printed	
<u>good cause</u>						
Pardons (Board Of), Administration	37348	R671-515	5YR	02/15/2013	2013-5/215	
<u>grants</u>						
Education, Administration	37279	R277-498	NEW	04/08/2013	2013-5/14	
<u>graphic arts</u>						
Environmental Quality, Air Quality	36733	R307-351	NEW	02/01/2013	2012-19/80	
	36733	R307-351	CPR	02/01/2013	2013-1/69	
	37235	R307-351-4	NSC	02/15/2013	Not Printed	
<u>greenhouse gases</u>						
Environmental Quality, Air Quality	37037	R307-401-15	AMD	02/07/2013	2012-23/40	
	37236	R307-401-15	NSC	02/15/2013	Not Printed	
<u>grievance procedures</u>						
Tax Commission, Administration	36991	R861-1A-12	AMD	01/10/2013	2012-22/144	
	37104	R861-1A-26	AMD	02/21/2013	2013-1/15	
	37106	R861-1A-37	AMD	02/21/2013	2013-1/17	
	37107	R861-1A-46	AMD	02/21/2013	2013-1/18	
<u>hatchery</u>						
Agriculture and Food, Animal Industry	37248	R58-6	R&R	03/25/2013	2013-4/6	
<u>hazardous materials</u>						
Public Safety, Fire Marshal	37390	R710-12	5YR	03/08/2013	2013-7/67	
<u>health care facilities</u>						
Health, Family Health and Preparedness, Licensing	37281	R432-16	5YR	02/11/2013	2013-5/209	

	37441	R432-35	5YR	03/25/2013	2013-8/55
<u>health facilities</u>					
Health, Center for Health Data, Vital Records and Statistics	37428	R436-9	5YR	03/21/2013	2013-8/59
<u>hearings</u>					
Environmental Quality, Administration	36554	R305-6	REP	01/31/2013	2012-16/28
	36554	R305-6	CPR	01/31/2013	2013-1/32
	36553	R305-7	NEW	01/31/2013	2012-16/45
	36553	R305-7	CPR	01/31/2013	2013-1/32
Environmental Quality, Radiation Control	37192	R313-17	AMD	03/19/2013	2013-3/40
Environmental Quality, Water Quality	37239	R317-9	5YR	01/31/2013	2013-4/51
Health, Health Care Financing, Coverage and Reimbursement Policy	37221	R414-301	5YR	01/23/2013	2013-4/52
Pardons (Board Of), Administration	37346	R671-513	5YR	02/15/2013	2013-5/214
	37349	R671-516	5YR	02/15/2013	2013-5/215
	37350	R671-517	5YR	02/15/2013	2013-5/216
	37352	R671-519	5YR	02/15/2013	2013-5/217
	37353	R671-520	5YR	02/15/2013	2013-5/217
	37354	R671-522	5YR	02/15/2013	2013-5/218
Professional Practices Advisory Commission, Administration	37243	R686-100	5YR	02/01/2013	2013-4/60
<u>HIPPA</u>					
Human Services, Administration	37525	R495-881	5YR	04/15/2013	Not Printed
<u>historic preservation</u>					
Tax Commission, Auditing	37108	R865-9I-13	AMD	02/21/2013	2013-1/20
	37178	R865-9I-46	NSC	01/31/2013	Not Printed
<u>historical significance</u>					
Administrative Services, Facilities Construction and Management	37358	R23-22	5YR	02/20/2013	2013-6/49
<u>home-delivered meals</u>					
Human Services, Aging and Adult Services	37228	R510-104-11	AMD	04/15/2013	2013-4/18
<u>horses</u>					
Agriculture and Food, Horse Racing Commission (Utah)	37420	R52-7	EMR	03/20/2013	2013-8/47
<u>hospitals</u>					
Environmental Quality, Air Quality	37256	R307-222	5YR	02/06/2013	2013-5/194
<u>human services</u>					
Human Services, Services for People with Disabilities	37110	R539-1	AMD	02/13/2013	2013-1/2
<u>IEEE 1366</u>					
Public Service Commission, Administration	37116	R746-313	AMD	02/21/2013	2013-2/87
<u>impairment ratings</u>					
Labor Commission, Industrial Accidents	37135	R612-7	REP	02/25/2013	2013-2/49
<u>import restrictions</u>					
Natural Resources, Wildlife Resources	37384	R657-3	5YR	03/05/2013	2013-7/67
<u>incidents</u>					
Pardons (Board Of), Administration	37342	R671-509	5YR	02/15/2013	2013-5/212
<u>incinerators</u>					
Environmental Quality, Air Quality	37258	R307-220	5YR	02/06/2013	2013-5/193
<u>income</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	37173	R414-303	EMR	01/07/2013	2013-3/103
	37216	R414-303	5YR	01/23/2013	2013-4/53

RULES INDEX

	37217	R414-304	5YR	01/23/2013	2013-4/54
<u>income tax</u>					
Tax Commission, Auditing	37108	R865-9I-13	AMD	02/21/2013	2013-1/20
	37178	R865-9I-46	NSC	01/31/2013	Not Printed
<u>income withholding fees</u>					
Human Services, Recovery Services	37231	R527-302	5YR	01/28/2013	2013-4/59
<u>independent foster care adolescent</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	37173	R414-303	EMR	01/07/2013	2013-3/103
	37216	R414-303	5YR	01/23/2013	2013-4/53
<u>industrial waste</u>					
Environmental Quality, Water Quality	37240	R317-13	5YR	01/31/2013	2013-4/51
<u>industry</u>					
Environmental Quality, Radiation Control	37198	R313-35	AMD	03/19/2013	2013-3/91
	37186	R313-36	NSC	01/31/2013	Not Printed
<u>infectious waste</u>					
Environmental Quality, Air Quality	37256	R307-222	5YR	02/06/2013	2013-5/194
<u>informal adjudicative proceedings</u>					
Labor Commission, Industrial Accidents	37137	R612-9	REP	02/25/2013	2013-2/52
<u>inspections</u>					
Agriculture and Food, Animal Industry	37246	R58-18	AMD	03/25/2013	2013-4/12
Agriculture and Food, Plant Industry	37249	R68-5	5YR	02/05/2013	2013-5/189
Environmental Quality, Radiation Control	37189	R313-12	AMD	03/19/2013	2013-3/6
	37179	R313-16	NSC	01/31/2013	Not Printed
	37193	R313-18	AMD	03/19/2013	2013-3/42
<u>instructional materials</u>					
Education, Administration	37494	R277-469	5YR	04/08/2013	Not Printed
<u>insurance</u>					
Insurance, Administration	36846	R590-171	AMD	01/22/2013	2012-20/74
	36846	R590-171	CPR	01/22/2013	2012-24/32
	37230	R590-171-3	NSC	02/15/2013	Not Printed
	37176	R590-218	5YR	01/09/2013	2013-3/113
Labor Commission, Industrial Accidents	37133	R612-5	REP	02/25/2013	2013-2/46
	37127	R612-400	NEW	02/25/2013	2013-2/76
<u>insurance fees</u>					
Insurance, Administration	37018	R590-102	AMD	01/18/2013	2012-22/131
	37220	R590-102-4	NSC	02/15/2013	Not Printed
	37171	R590-157	5YR	01/07/2013	2013-3/112
<u>insurance law</u>					
Insurance, Administration	37412	R590-94	5YR	03/15/2013	2013-7/66
	37118	R590-164	AMD	02/25/2013	2013-2/24
<u>insurance unfair marketing practices</u>					
Insurance, Administration	37421	R590-154	5YR	03/20/2013	2013-8/63
<u>interns</u>					
Education, Administration	37059	R277-509	AMD	01/07/2013	2012-23/39
<u>interstate</u>					
Human Services, Recovery Services	37168	R527-305	5YR	01/03/2013	2013-3/111
<u>interstate system</u>					
Transportation, Administration	37094	R907-64	R&R	02/07/2013	2013-1/23

<u>irradiator</u>						
Environmental Quality, Radiation Control	37185	R313-34	NSC	01/31/2013	Not Printed	
<u>job creation</u>						
Governor, Economic Development	37206	R357-2	EXT	01/16/2013	2013-4/63	
<u>juvenile courts</u>						
Education, Administration	37405	R277-709	5YR	03/12/2013	2013-7/64	
	37244	R277-709-3	NSC	02/15/2013	Not Printed	
<u>kidnap offender registry</u>						
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	37232	R722-360	NEW	03/25/2013	2013-4/46	
<u>kinship</u>						
Human Services, Child and Family Services	37505	R512-500	5YR	04/08/2013	Not Printed	
<u>labor</u>						
Labor Commission, Boiler and Elevator Safety	37493	R616-1	5YR	04/05/2013	Not Printed	
<u>labor commission</u>						
Labor Commission, Administration	37492	R600-1	5YR	04/05/2013	Not Printed	
<u>landfills</u>						
Environmental Quality, Air Quality	37258	R307-220	5YR	02/06/2013	2013-5/193	
<u>landscape architects</u>						
Commerce, Occupational and Professional Licensing	37274	R156-53	5YR	02/07/2013	2013-5/190	
<u>large appliance</u>						
Environmental Quality, Air Quality	36729	R307-347	NEW	02/01/2013	2012-19/71	
	36729	R307-347	CPR	02/01/2013	2013-1/59	
<u>law enforcement</u>						
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	37226	R722-320	5YR	01/24/2013	2013-4/61	
	37227	R722-320	NSC	02/15/2013	Not Printed	
<u>liberties</u>						
Natural Resources, Administration	37219	R634-1	5YR	01/23/2013	2013-4/59	
<u>license</u>						
Environmental Quality, Radiation Control	37194	R313-19	AMD	03/19/2013	2013-3/45	
<u>licensing</u>						
Commerce, Occupational and Professional Licensing	37395	R156-1	NSC	04/01/2013	Not Printed	
	37199	R156-1-102	AMD	03/11/2013	2013-3/2	
	37073	R156-3a-102	AMD	01/24/2013	2012-24/6	
	37417	R156-31b	5YR	03/18/2013	2013-8/53	
	37040	R156-37	AMD	01/08/2013	2012-23/18	
	37175	R156-37-502	NSC	01/30/2013	Not Printed	
	37039	R156-37f	NEW	01/08/2013	2012-23/21	
	37071	R156-44a	AMD	01/22/2013	2012-24/11	
	37273	R156-49	5YR	02/07/2013	2013-5/189	
	37274	R156-53	5YR	02/07/2013	2013-5/190	
	37270	R156-67-306	AMD	04/08/2013	2013-5/10	
	37272	R156-68	5YR	02/07/2013	2013-5/191	
	37271	R156-68-306	AMD	04/08/2013	2013-5/11	
	37202	R156-82	NEW	03/11/2013	2013-3/5	
	37396	R156-82	NSC	04/01/2013	Not Printed	
Education, Administration	37399	R277-518	5YR	03/12/2013	2013-7/61	
Environmental Quality, Radiation Control	37193	R313-18	AMD	03/19/2013	2013-3/42	
	37186	R313-36	NSC	01/31/2013	Not Printed	
<u>licensing and certification</u>						
Commerce, Real Estate	36973	R162-2g	AMD	01/02/2013	2012-22/19	

RULES INDEX

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<u>loans</u>						
Environmental Quality, Water Quality	37448	R317-101	5YR	03/28/2013	2013-8/54	
<u>local government</u>						
Health, Center for Health Data, Vital Records and Statistics	37429	R436-10	5YR	03/21/2013	2013-8/60	
	37430	R436-12	5YR	03/21/2013	2013-8/60	
<u>long-term care</u>						
Corrections, Administration	37389	R251-114	5YR	03/07/2013	2013-7/61	
<u>longitudinal access</u>						
Transportation, Administration	37094	R907-64	R&R	02/07/2013	2013-1/23	
<u>magnet wire</u>						
Environmental Quality, Air Quality	36730	R307-348	NEW	02/01/2013	2012-19/73	
	36730	R307-348	CPR	02/01/2013	2013-1/61	
<u>major event</u>						
Public Service Commission, Administration	37116	R746-313	AMD	02/21/2013	2013-2/87	
<u>mammography</u>						
Environmental Quality, Radiation Control	37183	R313-28	NSC	01/31/2013	Not Printed	
<u>maps</u>						
Natural Resources, Water Rights	37388	R655-5	5YR	03/07/2013	2013-7/66	
<u>market trading program</u>						
Environmental Quality, Air Quality	37253	R307-250	5YR	02/06/2013	2013-5/196	
<u>math teaching training</u>						
Education, Administration	37279	R277-498	NEW	04/08/2013	2013-5/14	
<u>Medicaid</u>						
Health, Health Care Financing	37045	R410-14	AMD	01/09/2013	2012-23/44	
Health, Health Care Financing, Coverage and Reimbursement Policy	37122	R414-1-5	AMD	03/01/2013	2013-2/18	
	37391	R414-6	5YR	03/08/2013	2013-7/65	
	37177	R414-27	5YR	01/09/2013	2013-3/109	
	37221	R414-301	5YR	01/23/2013	2013-4/52	
	37215	R414-302	5YR	01/23/2013	2013-4/53	
	37222	R414-305	5YR	01/23/2013	2013-4/54	
	37223	R414-308	5YR	01/23/2013	2013-4/55	
<u>medical incinerators</u>						
Environmental Quality, Air Quality	37256	R307-222	5YR	02/06/2013	2013-5/194	
<u>medical practitioners</u>						
Labor Commission, Industrial Accidents	37130	R612-2	REP	02/25/2013	2013-2/35	
	37126	R612-300	NEW	02/25/2013	2013-2/66	
<u>medical transportation</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	37174	R414-306	EMR	01/07/2013	2013-3/105	
	37218	R414-306	5YR	01/23/2013	2013-4/55	
<u>medication treatment</u>						
Human Services, Substance Abuse and Mental Health, State Hospital	37224	R525-3	5YR	01/24/2013	2013-4/56	
<u>mercury</u>						
Environmental Quality, Air Quality	37254	R307-224	5YR	02/06/2013	2013-5/195	
<u>metal containers</u>						
Environmental Quality, Air Quality	36734	R307-352	NEW	02/01/2013	2012-19/84	
	36734	R307-352	CPR	02/01/2013	2013-1/73	

<u>metal furniture</u>						
Environmental Quality, Air Quality	36728	R307-346	NEW	02/01/2013	2012-19/69	
	36728	R307-346	CPR	02/01/2013	2013-1/57	
<u>midwifery</u>						
Commerce, Occupational and Professional Licensing	37071	R156-44a	AMD	01/22/2013	2012-24/11	
<u>minerals reclamation</u>						
Natural Resources, Oil, Gas and Mining; Non-Coal	37467	R647-1	5YR	04/01/2013	2013-8/65	
	37468	R647-2	5YR	04/01/2013	2013-8/65	
	37469	R647-3	5YR	04/01/2013	2013-8/66	
	37470	R647-4	5YR	04/01/2013	2013-8/66	
	37471	R647-5	5YR	04/01/2013	2013-8/67	
	37476	R647-6	5YR	04/02/2013	Not Printed	
	37477	R647-7	5YR	04/02/2013	Not Printed	
	37478	R647-8	5YR	04/02/2013	Not Printed	
<u>mining</u>						
Labor Commission, Boiler and Elevator Safety	37493	R616-1	5YR	04/05/2013	Not Printed	
<u>miscellaneous metal parts</u>						
Environmental Quality, Air Quality	36732	R307-350	NEW	02/01/2013	2012-19/76	
	36732	R307-350	CPR	02/01/2013	2013-1/65	
<u>monitoring</u>						
Environmental Quality, Air Quality	37259	R307-170	5YR	02/06/2013	2013-5/192	
Environmental Quality, Radiation Control	37196	R313-24	AMD	03/19/2013	2013-3/74	
<u>mothers</u>						
Health, Center for Health Data, Vital Records and Statistics	37424	R436-3	5YR	03/21/2013	2013-8/57	
<u>municipal landfills</u>						
Environmental Quality, Air Quality	37257	R307-221	5YR	02/06/2013	2013-5/194	
<u>municipal waste incinerator</u>						
Environmental Quality, Air Quality	37255	R307-223	5YR	02/06/2013	2013-5/195	
<u>non-licensed public education employee</u>						
Education, Administration	37280	R277-532	NEW	04/08/2013	2013-5/16	
<u>NPIP</u>						
Agriculture and Food, Animal Industry	37248	R58-6	R&R	03/25/2013	2013-4/6	
<u>nuclear medicine</u>						
Environmental Quality, Radiation Control	37184	R313-32	NSC	01/31/2013	Not Printed	
<u>nurses</u>						
Commerce, Occupational and Professional Licensing	37417	R156-31b	5YR	03/18/2013	2013-8/53	
<u>nutrition</u>						
Education, Administration	37406	R277-719	5YR	03/12/2013	2013-7/65	
Human Services, Aging and Adult Services	37228	R510-104-11	AMD	04/15/2013	2013-4/18	
<u>off-highway vehicles</u>						
Natural Resources, Parks and Recreation	37519	R651-407	5YR	04/12/2013	Not Printed	
	36856	R651-408	REP	01/15/2013	2012-20/77	
<u>oil and gas law</u>						
Natural Resources, Oil, Gas and Mining; Oil and Gas	37444	R649-1-1	NSC	04/15/2013	Not Printed	
	36992	R649-3-38	AMD	01/23/2013	2012-22/140	
	37479	R649-6	5YR	04/02/2013	Not Printed	
<u>osteopathic physician</u>						
Commerce, Occupational and Professional Licensing	37272	R156-68	5YR	02/07/2013	2013-5/191	
	37271	R156-68-306	AMD	04/08/2013	2013-5/11	

RULES INDEX

---

osteopaths

Commerce, Occupational and Professional Licensing	37272	R156-68	5YR	02/07/2013	2013-5/191
	37271	R156-68-306	AMD	04/08/2013	2013-5/11

outdoor wood boilers

Environmental Quality, Air Quality	36481	R307-208	NEW	04/10/2013	2012-15/12
	36481	R307-208	CPR	04/10/2013	2012-23/56
	36481	R307-208	CPR	04/10/2013	2013-5/184

overpayments

Workforce Services, Unemployment Insurance	37066	R994-305	AMD	01/08/2013	2012-23/52
	37023	R994-305-1201	AMD	01/02/2013	2012-22/147
	37024	R994-406	AMD	01/02/2013	2012-22/148
	37238	R994-406-301	AMD	04/02/2013	2013-4/48

ozone

Environmental Quality, Air Quality	36725	R307-340	REP	02/01/2013	2012-19/49
	36725	R307-340	CPR	02/01/2013	2013-1/48

paper coating

Environmental Quality, Air Quality	36726	R307-344	NEW	02/01/2013	2012-19/65
	36726	R307-344	CPR	02/01/2013	2013-1/52

parking facilities

Administrative Services, Facilities Construction and Management	37357	R23-13	5YR	02/20/2013	2013-6/49
Regents (Board Of), University of Utah, Commuter Services	37096	R810-1-8	AMD	03/21/2013	2013-1/12
	37098	R810-1-14	AMD	03/21/2013	2013-1/13
	37092	R810-2-1	AMD	03/21/2013	2013-1/14
	37387	R810-12	EXD	03/07/2013	2013-7/71

parks

Natural Resources, Parks and Recreation	37205	R651-633	AMD	03/14/2013	2013-3/100
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parole

Pardons (Board Of), Administration	37342	R671-509	5YR	02/15/2013	2013-5/212
	37343	R671-510	5YR	02/15/2013	2013-5/212
	37344	R671-512	5YR	02/15/2013	2013-5/213
	37346	R671-513	5YR	02/15/2013	2013-5/214
	37347	R671-514	5YR	02/15/2013	2013-5/214
	37348	R671-515	5YR	02/15/2013	2013-5/215
	37349	R671-516	5YR	02/15/2013	2013-5/215
	37350	R671-517	5YR	02/15/2013	2013-5/216
	37351	R671-518	5YR	02/15/2013	2013-5/216
	37352	R671-519	5YR	02/15/2013	2013-5/217
	37353	R671-520	5YR	02/15/2013	2013-5/217
	37354	R671-522	5YR	02/15/2013	2013-5/218

particulates

Environmental Quality, Air Quality	36741	R307-307	AMD	02/01/2013	2012-19/42
	36741	R307-307	CPR	02/01/2013	2013-1/45
	37234	R307-307	NSC	02/15/2013	Not Printed

patient rights

Human Services, Substance Abuse and Mental Health, State Hospital	37211	R525-2	5YR	01/23/2013	2013-4/56
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penalties

Environmental Quality, Radiation Control	37190	R313-14	AMD	03/19/2013	2013-3/14
Health, Center for Health Data, Vital Records and Statistics	37434	R436-16	5YR	03/21/2013	2013-8/62
Labor Commission, Industrial Accidents	37137	R612-9	REP	02/25/2013	2013-2/52
	37141	R612-13	REP	02/25/2013	2013-2/57

people with disabilities

Human Services, Services for People with Disabilities	37111	R539-2	AMD	02/13/2013	2013-1/8
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<u>per diem allowances</u>					
Administrative Services, Finance	37521	R25-5	5YR	04/15/2013	Not Printed
	37523	R25-7	5YR	04/15/2013	Not Printed
<u>permits</u>					
Environmental Quality, Air Quality	37037	R307-401-15	AMD	02/07/2013	2012-23/40
	37236	R307-401-15	NSC	02/15/2013	Not Printed
Health, Center for Health Data, Vital Records and Statistics	37427	R436-8	5YR	03/21/2013	2013-8/58
<u>persistently dangerous schools</u>					
Education, Administration	37495	R277-483	5YR	04/08/2013	Not Printed
<u>personal property</u>					
Tax Commission, Property Tax	37109	R884-24P-67	AMD	02/21/2013	2013-1/22
<u>physicians</u>					
Commerce, Occupational and Professional Licensing	37270	R156-67-306	AMD	04/08/2013	2013-5/10
<u>pleas</u>					
Pardons (Board Of), Administration	37347	R671-514	5YR	02/15/2013	2013-5/214
<u>PM2.5</u>					
Environmental Quality, Air Quality	36480	R307-303	NEW	04/10/2013	2012-15/13
	36480	R307-303	CPR	04/10/2013	2012-23/60
	36480	R307-303	CPR	04/10/2013	2013-5/186
<u>policies</u>					
Education, Administration	37280	R277-532	NEW	04/08/2013	2013-5/16
<u>pools</u>					
Health, Disease Control and Prevention, Environmental Services	37072	R392-302-3	AMD	02/28/2013	2012-24/26
<u>POTW</u>					
Environmental Quality, Water Quality	37241	R317-14	5YR	01/31/2013	2013-4/52
<u>poultry</u>					
Agriculture and Food, Animal Industry	37248	R58-6	R&R	03/25/2013	2013-4/6
<u>printing operations</u>					
Environmental Quality, Air Quality	36733	R307-351	NEW	02/01/2013	2012-19/80
	36733	R307-351	CPR	02/01/2013	2013-1/69
	37235	R307-351-4	NSC	02/15/2013	Not Printed
<u>privacy</u>					
Human Services, Administration	37525	R495-881	5YR	04/15/2013	Not Printed
<u>probable cause</u>					
Pardons (Board Of), Administration	37343	R671-510	5YR	02/15/2013	2013-5/212
<u>professional</u>					
Education, Administration	37147	R277-517	NEW	02/21/2013	2013-2/15
	37359	R277-517-5	NSC	03/15/2013	Not Printed
<u>professional competency</u>					
Education, Administration	37058	R277-502	AMD	01/07/2013	2012-23/34
	37146	R277-502	AMD	02/21/2013	2013-2/10
	37497	R277-508	5YR	04/08/2013	Not Printed
<u>professional conduct</u>					
Commerce, Real Estate	37076	R162-57a	AMD	04/02/2013	2012-24/14
<u>professional education</u>					
Education, Administration	37399	R277-518	5YR	03/12/2013	2013-7/61

RULES INDEX

---

<u>professional engineers</u>					
Commerce, Occupational and Professional Licensing	37074	R156-22	AMD	01/24/2013	2012-24/7
<u>professional land surveyors</u>					
Commerce, Occupational and Professional Licensing	37074	R156-22	AMD	01/24/2013	2012-24/7
<u>professional structural engineers</u>					
Commerce, Occupational and Professional Licensing	37074	R156-22	AMD	01/24/2013	2012-24/7
<u>program benefits</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	37174	R414-306	EMR	01/07/2013	2013-3/105
	37218	R414-306	5YR	01/23/2013	2013-4/55
<u>prohibited items and devices</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	37212	R525-6	5YR	01/23/2013	2013-4/58
<u>prohibition</u>					
Environmental Quality, Air Quality	36481	R307-208	NEW	04/10/2013	2012-15/12
	36481	R307-208	CPR	04/10/2013	2012-23/56
	36481	R307-208	CPR	04/10/2013	2013-5/184
<u>proof</u>					
Natural Resources, Water Rights	37388	R655-5	5YR	03/07/2013	2013-7/66
<u>property tax</u>					
Tax Commission, Property Tax	37109	R884-24P-67	AMD	02/21/2013	2013-1/22
<u>property transactions</u>					
Administrative Services, Facilities Construction and Management	37358	R23-22	5YR	02/20/2013	2013-6/49
<u>public assistance</u>					
Workforce Services, Employment Development	37067	R986-900-902	AMD	01/08/2013	2012-23/50
<u>public assistance programs</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	37215	R414-302	5YR	01/23/2013	2013-4/53
	37223	R414-308	5YR	01/23/2013	2013-4/55
<u>public buildings</u>					
Capitol Preservation Board (State), Administration	37064	R131-2	AMD	01/07/2013	2012-23/9
<u>public records</u>					
Natural Resources, Oil, Gas and Mining; Administration	37472	R642-200	5YR	04/02/2013	Not Printed
<u>public schools</u>					
Education, Administration	37419	R277-460-6	NSC	04/15/2013	Not Printed
<u>public utilities</u>					
Public Service Commission, Administration	37041	R746-320	AMD	01/07/2013	2012-23/48
	37385	R746-330	5YR	03/05/2013	2013-7/68
	37451	R746-332	5YR	03/28/2013	2013-8/68
	37386	R746-347	5YR	03/05/2013	2013-7/68
	37452	R746-402	5YR	03/28/2013	2013-8/68
	37450	R746-405	5YR	03/28/2013	2013-8/69
<u>quarantine</u>					
Agriculture and Food, Plant Industry	37445	R68-14	5YR	03/27/2013	2013-8/53
<u>radiation</u>					
Environmental Quality, Radiation Control	37180	R313-25	NSC	01/31/2013	Not Printed
	37197	R313-30	AMD	03/19/2013	2013-3/76
	37185	R313-34	NSC	01/31/2013	Not Printed

<u>radiation safety</u>					
Environmental Quality, Radiation Control	37193	R313-18	AMD	03/19/2013	2013-3/42
	37197	R313-30	AMD	03/19/2013	2013-3/76
	37185	R313-34	NSC	01/31/2013	Not Printed
<u>radioactive materials</u>					
Environmental Quality, Radiation Control	37191	R313-15	AMD	03/19/2013	2013-3/18
	37193	R313-18	AMD	03/19/2013	2013-3/42
	37181	R313-21	NSC	01/31/2013	Not Printed
	37195	R313-22	AMD	03/19/2013	2013-3/56
	37184	R313-32	NSC	01/31/2013	Not Printed
	37186	R313-36	NSC	01/31/2013	Not Printed
	37187	R313-38	NSC	01/31/2013	Not Printed
	37188	R313-70	NSC	01/31/2013	Not Printed
<u>radioactive waste disposal</u>					
Environmental Quality, Radiation Control	37180	R313-25	NSC	01/31/2013	Not Printed
<u>radioactive waste generator permit</u>					
Environmental Quality, Radiation Control	37182	R313-26	NSC	01/31/2013	Not Printed
<u>radiopharmaceutical</u>					
Environmental Quality, Radiation Control	37184	R313-32	NSC	01/31/2013	Not Printed
<u>rates</u>					
Administrative Services, Finance	37521	R25-5	5YR	04/15/2013	Not Printed
	37524	R25-8	5YR	04/15/2013	Not Printed
Labor Commission, Industrial Accidents	37132	R612-4	REP	02/25/2013	2013-2/46
	37127	R612-400	NEW	02/25/2013	2013-2/76
<u>raw milk</u>					
Agriculture and Food, Regulatory Services	36915	R70-320-18	AMD	01/29/2013	2012-21/8
	36914	R70-330	AMD	01/29/2013	2012-21/9
<u>real estate</u>					
Administrative Services, Facilities Construction and Management	37358	R23-22	5YR	02/20/2013	2013-6/49
<u>real estate appraisals</u>					
Commerce, Real Estate	36973	R162-2g	AMD	01/02/2013	2012-22/19
<u>reciprocity</u>					
Environmental Quality, Radiation Control	37194	R313-19	AMD	03/19/2013	2013-3/45
<u>reclamation</u>					
Natural Resources, Oil, Gas and Mining; Coal	37473	R645-101	5YR	04/02/2013	Not Printed
	37466	R645-102	5YR	04/01/2013	2013-8/64
	37474	R645-104	5YR	04/02/2013	Not Printed
	37475	R645-401	5YR	04/02/2013	Not Printed
<u>records</u>					
Education, Administration	37144	R277-487	AMD	02/21/2013	2013-2/7
<u>recusal</u>					
Environmental Quality, Administration	36776	R305-9	NEW	02/22/2013	2012-19/28
	36776	R305-9	CPR	02/22/2013	2013-2/94
<u>reemployment guidelines</u>					
Labor Commission, Industrial Accidents	37128	R612-500	NEW	02/25/2013	2013-2/79
<u>reemployment workers' compensation guidelines</u>					
Labor Commission, Industrial Accidents	37136	R612-8	REP	02/25/2013	2013-2/50
<u>registration</u>					
Commerce, Real Estate	37076	R162-57a	AMD	04/02/2013	2012-24/14
Environmental Quality, Radiation Control	37188	R313-70	NSC	01/31/2013	Not Printed

RULES INDEX

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<u>rehabilitation</u>						
Education, Rehabilitation	37500	R280-200	5YR	04/08/2013	Not Printed	
<u>reimbursements</u>						
Administrative Services, Finance	37522	R25-6	5YR	04/15/2013	Not Printed	
<u>released-time classes</u>						
Education, Administration	37402	R277-610	5YR	03/12/2013	2013-7/63	
<u>reliability</u>						
Public Service Commission, Administration	37116	R746-313	AMD	02/21/2013	2013-2/87	
<u>relocation benefits</u>						
Administrative Services, Finance	37522	R25-6	5YR	04/15/2013	Not Printed	
<u>reporting</u>						
Labor Commission, Industrial Accidents	37138	R612-10	REP	02/25/2013	2013-2/53	
	37139	R612-11	REP	02/25/2013	2013-2/54	
	37140	R612-12	REP	02/25/2013	2013-2/55	
	37141	R612-13	REP	02/25/2013	2013-2/57	
<u>reports</u>						
Education, Administration	37145	R277-484	AMD	02/21/2013	2013-2/4	
<u>research</u>						
Health, Center for Health Data, Vital Records and Statistics	37435	R436-17	5YR	03/21/2013	2013-8/63	
<u>resources</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	37222	R414-305	5YR	01/23/2013	2013-4/54	
<u>revocation</u>						
Pardons (Board Of), Administration	37349	R671-516	5YR	02/15/2013	2013-5/215	
<u>right-of-way</u>						
Transportation, Administration	37094	R907-64	R&R	02/07/2013	2013-1/23	
<u>roads</u>						
Environmental Quality, Air Quality	36741	R307-307	AMD	02/01/2013	2012-19/42	
	36741	R307-307	CPR	02/01/2013	2013-1/45	
	37234	R307-307	NSC	02/15/2013	Not Printed	
<u>rules and procedures</u>						
Public Service Commission, Administration	37041	R746-320	AMD	01/07/2013	2012-23/48	
	37451	R746-332	5YR	03/28/2013	2013-8/68	
	37452	R746-402	5YR	03/28/2013	2013-8/68	
	37450	R746-405	5YR	03/28/2013	2013-8/69	
<u>Rural Broadband Service Fund</u>						
Governor, Economic Development	37206	R357-2	EXT	01/16/2013	2013-4/63	
<u>rural economic development</u>						
Governor, Economic Development	37206	R357-2	EXT	01/16/2013	2013-4/63	
<u>safety</u>						
Environmental Quality, Radiation Control	37191	R313-15	AMD	03/19/2013	2013-3/18	
Regents (Board Of), University of Utah, Administration	37407	R805-1	5YR	03/12/2013	2013-7/69	
<u>SAIDI/SAIFI</u>						
Public Service Commission, Administration	37116	R746-313	AMD	02/21/2013	2013-2/87	
<u>salons</u>						
Health, Disease Control and Prevention, Environmental Services	37251	R392-700	5YR	02/06/2013	2013-5/209	

<u>sanitation</u>					
Health, Disease Control and Prevention, Environmental Services	37251	R392-700	5YR	02/06/2013	2013-5/209
<u>school buses</u>					
Education, Administration	37400	R277-600	5YR	03/12/2013	2013-7/62
<u>school choice</u>					
Education, Administration	37495	R277-483	5YR	04/08/2013	Not Printed
<u>school enrollment</u>					
Education, Administration	37278	R277-445-3	AMD	04/08/2013	2013-5/13
<u>school personnel</u>					
Education, Administration	37497	R277-508	5YR	04/08/2013	Not Printed
<u>school transportation</u>					
Education, Administration	37400	R277-600	5YR	03/12/2013	2013-7/62
<u>school vision</u>					
Health, Disease Control and Prevention, Health Promotion	37028	R384-201	NEW	02/20/2013	2012-23/42
<u>school year</u>					
Education, Administration	37499	R277-751	5YR	04/08/2013	Not Printed
<u>schools</u>					
Education, Administration	37406	R277-719	5YR	03/12/2013	2013-7/65
Environmental Quality, Air Quality	37252	R307-801	5YR	02/06/2013	2013-5/197
<u>scooters</u>					
Regents (Board Of), University of Utah, Administration	37407	R805-1	5YR	03/12/2013	2013-7/69
<u>secure areas</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	37212	R525-6	5YR	01/23/2013	2013-4/58
<u>securities</u>					
Commerce, Securities	37042	R164-31-1	AMD	01/08/2013	2012-23/26
<u>securities regulations</u>					
Commerce, Securities	37042	R164-31-1	AMD	01/08/2013	2012-23/26
<u>self insurance plans</u>					
Labor Commission, Industrial Accidents	37131	R612-3	REP	02/25/2013	2013-2/43
<u>seniors</u>					
Human Services, Aging and Adult Services	37277	R510-105	5YR	02/08/2013	2013-5/210
<u>services</u>					
Human Services, Services for People with Disabilities	37111	R539-2	AMD	02/13/2013	2013-1/8
<u>settlements</u>					
Labor Commission, Industrial Accidents	37138	R612-10	REP	02/25/2013	2013-2/53
	37139	R612-11	REP	02/25/2013	2013-2/54
	37140	R612-12	REP	02/25/2013	2013-2/55
<u>sewage effluent use</u>					
Natural Resources, Water Rights	37119	R655-7	REP	03/07/2013	2013-2/81
<u>sewage treatment</u>					
Environmental Quality, Water Quality	37448	R317-101	5YR	03/28/2013	2013-8/54
<u>sewerage</u>					
Public Service Commission, Administration	37385	R746-330	5YR	03/05/2013	2013-7/68

RULES INDEX

---

sex offender registry

Public Safety, Criminal Investigations and Technical Services, Criminal Identification 37232 R722-360 NEW 03/25/2013 2013-4/46

skateboards

Regents (Board Of), University of Utah, Administration 37407 R805-1 5YR 03/12/2013 2013-7/69

social security numbers

Human Services, Services for People with Disabilities 37110 R539-1 AMD 02/13/2013 2013-1/2

social services

Human Services, Child and Family Services 37502 R512-200 5YR 04/08/2013 Not Printed  
 37503 R512-201 5YR 04/08/2013 Not Printed  
 37504 R512-202 5YR 04/08/2013 Not Printed

solid waste management

Environmental Quality, Solid and Hazardous Waste 37282 R315-301 5YR 02/13/2013 2013-5/198  
 37283 R315-302 5YR 02/13/2013 2013-5/198  
 37284 R315-303 5YR 02/13/2013 2013-5/199  
 37285 R315-304 5YR 02/13/2013 2013-5/200  
 37286 R315-305 5YR 02/13/2013 2013-5/200  
 37287 R315-306 5YR 02/13/2013 2013-5/201  
 37288 R315-307 5YR 02/13/2013 2013-5/201  
 37289 R315-308 5YR 02/13/2013 2013-5/202  
 37290 R315-309 5YR 02/13/2013 2013-5/202  
 37291 R315-310 5YR 02/13/2013 2013-5/203  
 37292 R315-311 5YR 02/13/2013 2013-5/204  
 37293 R315-312 5YR 02/13/2013 2013-5/204  
 37294 R315-313 5YR 02/13/2013 2013-5/205  
 37295 R315-314 5YR 02/13/2013 2013-5/205  
 37296 R315-315 5YR 02/13/2013 2013-5/206  
 37297 R315-316 5YR 02/13/2013 2013-5/206  
 37298 R315-317 5YR 02/13/2013 2013-5/207  
 37299 R315-318 5YR 02/13/2013 2013-5/208  
 37300 R315-320 5YR 02/13/2013 2013-5/208

solvent cleaning

Environmental Quality, Air Quality 36737 R307-355 NEW 02/01/2013 2012-19/91

source development

Environmental Quality, Drinking Water 36562 R309-515-6 AMD 01/16/2013 2012-16/66  
 36562 R309-515-6 CPR 01/16/2013 2012-23/70

source maintenance

Environmental Quality, Drinking Water 36562 R309-515-6 AMD 01/16/2013 2012-16/66  
 36562 R309-515-6 CPR 01/16/2013 2012-23/70

source materials

Environmental Quality, Radiation Control 37181 R313-21 NSC 01/31/2013 Not Printed

spas

Health, Disease Control and Prevention, Environmental Services 37072 R392-302-3 AMD 02/28/2013 2012-24/26

specific licenses

Environmental Quality, Radiation Control 37195 R313-22 AMD 03/19/2013 2013-3/56

standards

Education, Administration 37147 R277-517 NEW 02/21/2013 2013-2/15  
 37359 R277-517-5 NSC 03/15/2013 Not Printed  
 Health, Center for Health Data, Vital Records and Statistics 37418 R436-1 5YR 03/19/2013 2013-8/55  
 37429 R436-10 5YR 03/21/2013 2013-8/60  
 37430 R436-12 5YR 03/21/2013 2013-8/60  
 37431 R436-13 5YR 03/21/2013 2013-8/61

<u>state employees</u>					
Administrative Services, Finance	37521	R25-5	5YR	04/15/2013	Not Printed
	37523	R25-7	5YR	04/15/2013	Not Printed
	37524	R25-8	5YR	04/15/2013	Not Printed
<u>state hospital</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	37212	R525-6	5YR	01/23/2013	2013-4/58
<u>state vehicle use</u>					
Administrative Services, Fleet Operations	36949	R27-3	AMD	03/07/2013	2012-22/11
<u>Statewide Mutual Aid Act</u>					
Public Safety, Homeland Security	37117	R704-2	NEW	02/25/2013	2013-2/83
<u>student competency</u>					
Education, Administration	37404	R277-702	5YR	03/12/2013	2013-7/64
<u>student teachers</u>					
Education, Administration	37059	R277-509	AMD	01/07/2013	2012-23/39
<u>students</u>					
Education, Administration	37496	R277-485	5YR	04/08/2013	Not Printed
	37144	R277-487	AMD	02/21/2013	2013-2/7
	37405	R277-709	5YR	03/12/2013	2013-7/64
	37244	R277-709-3	NSC	02/15/2013	Not Printed
<u>substance abuse prevention</u>					
Education, Administration	37419	R277-460-6	NSC	04/15/2013	Not Printed
<u>subsurface tracer studies</u>					
Environmental Quality, Radiation Control	37187	R313-38	NSC	01/31/2013	Not Printed
<u>suggestions</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	37213	R525-7	5YR	01/23/2013	2013-4/58
<u>sulfur dioxide</u>					
Environmental Quality, Air Quality	37253	R307-250	5YR	02/06/2013	2013-5/196
<u>supervision</u>					
Commerce, Occupational and Professional Licensing	37395	R156-1	NSC	04/01/2013	Not Printed
	37199	R156-1-102	AMD	03/11/2013	2013-3/2
<u>surface coating</u>					
Environmental Quality, Air Quality	36725	R307-340	REP	02/01/2013	2012-19/49
	36725	R307-340	CPR	02/01/2013	2013-1/48
	36728	R307-346	NEW	02/01/2013	2012-19/69
	36728	R307-346	CPR	02/01/2013	2013-1/57
	36729	R307-347	NEW	02/01/2013	2012-19/71
	36729	R307-347	CPR	02/01/2013	2013-1/59
	36730	R307-348	NEW	02/01/2013	2012-19/73
	36730	R307-348	CPR	02/01/2013	2013-1/61
<u>survey</u>					
Environmental Quality, Radiation Control	37197	R313-30	AMD	03/19/2013	2013-3/76
<u>surveys</u>					
Environmental Quality, Radiation Control	37185	R313-34	NSC	01/31/2013	Not Printed
	37198	R313-35	AMD	03/19/2013	2013-3/91
	37186	R313-36	NSC	01/31/2013	Not Printed
	37187	R313-38	NSC	01/31/2013	Not Printed
<u>tailings</u>					
Environmental Quality, Radiation Control	37196	R313-24	AMD	03/19/2013	2013-3/74

RULES INDEX

---

<u>tanning beds</u>					
Health, Disease Control and Prevention, Environmental Services	37251	R392-700	5YR	02/06/2013	2013-5/209
<u>tariffs</u>					
Public Service Commission, Administration	37450	R746-405	5YR	03/28/2013	2013-8/69
<u>tax returns</u>					
Tax Commission, Auditing	37108	R865-9I-13	AMD	02/21/2013	2013-1/20
	37178	R865-9I-46	NSC	01/31/2013	Not Printed
<u>taxation</u>					
Tax Commission, Administration	36991	R861-1A-12	AMD	01/10/2013	2012-22/144
	37104	R861-1A-26	AMD	02/21/2013	2013-1/15
	37106	R861-1A-37	AMD	02/21/2013	2013-1/17
	37107	R861-1A-46	AMD	02/21/2013	2013-1/18
Tax Commission, Property Tax	37109	R884-24P-67	AMD	02/21/2013	2013-1/22
<u>taxes</u>					
Human Services, Recovery Services	37506	R527-475	5YR	04/08/2013	Not Printed
Insurance, Administration	37171	R590-157	5YR	01/07/2013	2013-3/112
<u>teacher licensing</u>					
Professional Practices Advisory Commission, Administration	37243	R686-100	5YR	02/01/2013	2013-4/60
<u>teacher preparation programs</u>					
Education, Administration	37059	R277-509	AMD	01/07/2013	2012-23/39
<u>teachers</u>					
Education, Administration	37497	R277-508	5YR	04/08/2013	Not Printed
<u>telecommunications</u>					
Public Service Commission, Administration	37386	R746-347	5YR	03/05/2013	2013-7/68
Transportation, Administration	37094	R907-64	R&R	02/07/2013	2013-1/23
<u>terminally ill</u>					
Corrections, Administration	37389	R251-114	5YR	03/07/2013	2013-7/61
<u>time</u>					
Labor Commission, Industrial Accidents	37129	R612-1	REP	02/25/2013	2013-2/28
	37125	R612-200	NEW	02/25/2013	2013-2/62
<u>timeliness</u>					
Pardons (Board Of), Administration	37348	R671-515	5YR	02/15/2013	2013-5/215
<u>timeshare</u>					
Commerce, Real Estate	37076	R162-57a	AMD	04/02/2013	2012-24/14
<u>trainee registration</u>					
Commerce, Real Estate	36973	R162-2g	AMD	01/02/2013	2012-22/19
<u>transportation</u>					
Administrative Services, Finance	37523	R25-7	5YR	04/15/2013	Not Printed
Environmental Quality, Radiation Control	37194	R313-19	AMD	03/19/2013	2013-3/45
Human Services, Aging and Adult Services	37277	R510-105	5YR	02/08/2013	2013-5/210
<u>transportation law</u>					
Administrative Services, Facilities Construction and Management	37357	R23-13	5YR	02/20/2013	2013-6/49
<u>trichomoniasis</u>					
Agriculture and Food, Animal Industry	36962	R58-21	AMD	01/04/2013	2012-22/16
<u>ultraviolet light safety</u>					
Health, Disease Control and Prevention, Environmental Services	37251	R392-700	5YR	02/06/2013	2013-5/209



<u>undercover identification</u>						
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	37226	R722-320	5YR	01/24/2013	2013-4/61	
	37227	R722-320	NSC	02/15/2013	Not Printed	
<u>unemployment compensation</u>						
Workforce Services, Unemployment Insurance	37518	R994-201	5YR	04/11/2013	Not Printed	
	37066	R994-305	AMD	01/08/2013	2012-23/52	
	37023	R994-305-1201	AMD	01/02/2013	2012-22/147	
	37024	R994-406	AMD	01/02/2013	2012-22/148	
	37238	R994-406-301	AMD	04/02/2013	2013-4/48	
<u>uninsured employers</u>						
Labor Commission, Industrial Accidents	37137	R612-9	REP	02/25/2013	2013-2/52	
<u>units</u>						
Environmental Quality, Radiation Control	37189	R313-12	AMD	03/19/2013	2013-3/6	
<u>uranium mills</u>						
Environmental Quality, Radiation Control	37196	R313-24	AMD	03/19/2013	2013-3/74	
<u>utility regulations</u>						
Public Service Commission, Administration	37450	R746-405	5YR	03/28/2013	2013-8/69	
<u>utility service shutoff</u>						
Public Service Commission, Administration	37041	R746-320	AMD	01/07/2013	2012-23/48	
<u>variances</u>						
Environmental Quality, Air Quality	37261	R307-102	5YR	02/06/2013	2013-5/191	
<u>vending machines</u>						
Education, Administration	37406	R277-719	5YR	03/12/2013	2013-7/65	
<u>veterinarians</u>						
Environmental Quality, Radiation Control	37198	R313-35	AMD	03/19/2013	2013-3/91	
<u>victim compensation</u>						
Crime Victim Reparations, Administration	37061	R270-1	AMD	01/07/2013	2012-23/27	
	37166	R270-1	NSC	01/30/2013	Not Printed	
<u>victims of crime</u>						
Crime Victim Reparations, Administration	37061	R270-1	AMD	01/07/2013	2012-23/27	
	37166	R270-1	NSC	01/30/2013	Not Printed	
<u>vinyl coating</u>						
Environmental Quality, Air Quality	36727	R307-345	NEW	02/01/2013	2012-19/67	
	36727	R307-345	CPR	02/01/2013	2013-1/54	
<u>violations</u>						
Environmental Quality, Radiation Control	37190	R313-14	AMD	03/19/2013	2013-3/14	
<u>vision evaluations</u>						
Health, Disease Control and Prevention, Health Promotion	37028	R384-201	NEW	02/20/2013	2012-23/42	
<u>visitors</u>						
Human Services, Substance Abuse and Mental Health, State Hospital	37210	R525-4	5YR	01/23/2013	2013-4/57	
<u>vital statistics</u>						
Health, Center for Health Data, Vital Records and Statistics	37418	R436-1	5YR	03/19/2013	2013-8/55	
	37423	R436-2	5YR	03/21/2013	2013-8/56	
	37424	R436-3	5YR	03/21/2013	2013-8/57	
	37425	R436-4	5YR	03/21/2013	2013-8/57	
	37426	R436-7	5YR	03/21/2013	2013-8/58	

RULES INDEX

	37427	R436-8	5YR	03/21/2013	2013-8/58
	37428	R436-9	5YR	03/21/2013	2013-8/59
	37429	R436-10	5YR	03/21/2013	2013-8/60
	37430	R436-12	5YR	03/21/2013	2013-8/60
	37431	R436-13	5YR	03/21/2013	2013-8/61
	37432	R436-14	5YR	03/21/2013	2013-8/61
	37433	R436-15	5YR	03/21/2013	2013-8/62
	37434	R436-16	5YR	03/21/2013	2013-8/62
	37435	R436-17	5YR	03/21/2013	2013-8/63
<u>VOC</u>					
Environmental Quality, Air Quality	36480	R307-303	NEW	04/10/2013	2012-15/13
	36480	R307-303	CPR	04/10/2013	2012-23/60
	36480	R307-303	CPR	04/10/2013	2013-5/186
	36733	R307-351	NEW	02/01/2013	2012-19/80
	36733	R307-351	CPR	02/01/2013	2013-1/69
	37235	R307-351-4	NSC	02/15/2013	Not Printed
	36736	R307-354	NEW	02/01/2013	2012-19/88
	36736	R307-354	CPR	02/01/2013	2013-1/79
<u>VOC emission</u>					
Environmental Quality, Air Quality	36726	R307-344	NEW	02/01/2013	2012-19/65
	36726	R307-344	CPR	02/01/2013	2013-1/52
<u>vocational education</u>					
Education, Rehabilitation	37500	R280-200	5YR	04/08/2013	Not Printed
<u>waivers</u>					
Labor Commission, Industrial Accidents	37127	R612-400	NEW	02/25/2013	2013-2/76
<u>warrants</u>					
Pardons (Board Of), Administration	37343	R671-510	5YR	02/15/2013	2013-5/212
	37344	R671-512	5YR	02/15/2013	2013-5/213
	37346	R671-513	5YR	02/15/2013	2013-5/214
<u>waste disposal</u>					
Environmental Quality, Radiation Control	37191	R313-15	AMD	03/19/2013	2013-3/18
Environmental Quality, Solid and Hazardous Waste	37282	R315-301	5YR	02/13/2013	2013-5/198
	37283	R315-302	5YR	02/13/2013	2013-5/198
	37284	R315-303	5YR	02/13/2013	2013-5/199
	37285	R315-304	5YR	02/13/2013	2013-5/200
	37286	R315-305	5YR	02/13/2013	2013-5/200
	37287	R315-306	5YR	02/13/2013	2013-5/201
	37288	R315-307	5YR	02/13/2013	2013-5/201
	37289	R315-308	5YR	02/13/2013	2013-5/202
	37290	R315-309	5YR	02/13/2013	2013-5/202
	37291	R315-310	5YR	02/13/2013	2013-5/203
	37292	R315-311	5YR	02/13/2013	2013-5/204
	37293	R315-312	5YR	02/13/2013	2013-5/204
	37295	R315-314	5YR	02/13/2013	2013-5/205
	37296	R315-315	5YR	02/13/2013	2013-5/206
	37297	R315-316	5YR	02/13/2013	2013-5/206
	37298	R315-317	5YR	02/13/2013	2013-5/207
	37299	R315-318	5YR	02/13/2013	2013-5/208
	37300	R315-320	5YR	02/13/2013	2013-5/208
Environmental Quality, Water Quality	37240	R317-13	5YR	01/31/2013	2013-4/51
<u>waste to energy plant</u>					
Environmental Quality, Air Quality	37255	R307-223	5YR	02/06/2013	2013-5/195
<u>wastewater</u>					
Environmental Quality, Water Quality	37241	R317-14	5YR	01/31/2013	2013-4/52
	37448	R317-101	5YR	03/28/2013	2013-8/54
<u>water</u>					
Public Service Commission, Administration	37385	R746-330	5YR	03/05/2013	2013-7/68
	37451	R746-332	5YR	03/28/2013	2013-8/68

<u>water pollution</u>						
Environmental Quality, Water Quality	37240	R317-13	5YR	01/31/2013	2013-4/51	
<u>water quality</u>						
Environmental Quality, Water Quality	37448	R317-101	5YR	03/28/2013	2013-8/54	
Public Service Commission, Administration	37385	R746-330	5YR	03/05/2013	2013-7/68	
<u>water rights</u>						
Natural Resources, Water Rights	37388	R655-5	5YR	03/07/2013	2013-7/66	
<u>water skiing</u>						
Natural Resources, Parks and Recreation	37242	R651-224	AMD	04/12/2013	2013-4/22	
<u>water slides</u>						
Health, Disease Control and Prevention, Environmental Services	37072	R392-302-3	AMD	02/28/2013	2012-24/26	
<u>weapons</u>						
Human Services, Substance Abuse and Mental Health, State Hospital	37212	R525-6	5YR	01/23/2013	2013-4/58	
<u>well logging</u>						
Environmental Quality, Radiation Control	37187	R313-38	NSC	01/31/2013	Not Printed	
<u>wildlife</u>						
Natural Resources, Wildlife Resources	37384	R657-3	5YR	03/05/2013	2013-7/67	
	37069	R657-13	AMD	01/22/2013	2012-24/29	
	37097	R657-37	AMD	02/07/2013	2013-1/11	
	37203	R657-58	5YR	01/15/2013	2013-3/114	
<u>wildlife law</u>						
Natural Resources, Wildlife Resources	37069	R657-13	AMD	01/22/2013	2012-24/29	
	37203	R657-58	5YR	01/15/2013	2013-3/114	
<u>workers' compensation</u>						
Labor Commission, Industrial Accidents	37129	R612-1	REP	02/25/2013	2013-2/28	
	37130	R612-2	REP	02/25/2013	2013-2/35	
	37131	R612-3	REP	02/25/2013	2013-2/43	
	37132	R612-4	REP	02/25/2013	2013-2/46	
	37133	R612-5	REP	02/25/2013	2013-2/46	
	37134	R612-6	REP	02/25/2013	2013-2/48	
	37135	R612-7	REP	02/25/2013	2013-2/49	
	37137	R612-9	REP	02/25/2013	2013-2/52	
	37138	R612-10	REP	02/25/2013	2013-2/53	
	37139	R612-11	REP	02/25/2013	2013-2/54	
	37140	R612-12	REP	02/25/2013	2013-2/55	
	37141	R612-13	REP	02/25/2013	2013-2/57	
	37124	R612-100	NEW	02/25/2013	2013-2/58	
		12/01/00	NEW	02/25/2013	2013-2/62	
	37126	R612-300	NEW	02/25/2013	2013-2/66	
	37127	R612-400	NEW	02/25/2013	2013-2/76	
	37128	R612-500	NEW	02/25/2013	2013-2/79	
<u>x-rays</u>						
Environmental Quality, Radiation Control	37179	R313-16	NSC	01/31/2013	Not Printed	
	37183	R313-28	NSC	01/31/2013	Not Printed	
	37197	R313-30	AMD	03/19/2013	2013-3/76	
	37198	R313-35	AMD	03/19/2013	2013-3/91	
	37188	R313-70	NSC	01/31/2013	Not Printed	
<u>zoological animals</u>						
Natural Resources, Wildlife Resources	37384	R657-3	5YR	03/05/2013	2013-7/67	