

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed December 03, 2013, 12:00 a.m. through December 16, 2013, 11:59 p.m.

Number 2014-1
January 01, 2014

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

The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at <http://www.rules.utah.gov/publicat/bulletin.htm>. Any discrepancy between the PDF version and other versions will be resolved in favor of the PDF version.

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)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit <http://www.rules.utah.gov/publicat/digest.htm> for additional information.

Division of Administrative Rules, Salt Lake City 84114

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Utah state bulletin.

Semimonthly.

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

I. Utah. Division of Administrative Rules.

KFU440.A73S7

348.792'025--DDC

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TABLE OF CONTENTS

SPECIAL NOTICES	1
Insurance	
Administration	
Public Hearing on Proposed Fees for Services Provided on Costs Incurred by the Utah Insurance Department During Fiscal Year 2014.....	1
NOTICES OF PROPOSED RULES	3
Administrative Services	
Finance	
No. 38175 (Amendment): R25-7 Travel-Related Reimbursements for State Employees.....	4
Commerce	
Occupational and Professional Licensing	
No. 38165 (Amendment): R156-72 Acupuncture Licensing Act Rule.....	8
Education	
Administration	
No. 38183 (Amendment): R277-116 Utah State Board of Education Internal Audit Procedure.....	10
No. 38185 (Amendment): R277-437 Student Enrollment Options.....	12
No. 38186 (Amendment): R277-470-6 Charter School Mentoring Program.....	14
No. 38187 (Amendment): R277-481 Charter School Oversight, Monitoring and Appeals.....	15
No. 38190 (Amendment): R277-527 International Guest Teachers.....	18
Environmental Quality	
Air Quality	
No. 38166 (Amendment): R307-302 Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber Counties.....	20
Health	
Disease Control and Prevention, Health Promotion	
No. 38178 (New Rule): R384-200 Program Eligibility, Benefits, and Administration.....	22
Disease Control and Prevention, Environmental Services	
No. 38177 (Amendment): R392-200-4 Site Standards.....	24
No. 38176 (Amendment): R392-303 Public Geothermal Pools and Bathing Places.....	25
Health Care Financing, Coverage and Reimbursement Policy	
No. 38191 (Amendment): R414-1-5 Incorporations by Reference.....	32
Family Health and Preparedness, Licensing	
No. 38173 (Amendment): R432-3 General Health Care Facility Rules Inspection and Enforcement.....	37
Money Management Council	
Administration	
No. 38179 (New Rule): R628-20 Foreign Deposits for Higher Education Institutions.....	41
No. 38180 (New Rule): R628-21 Conditions and Procedures for the Use of Reciprocal Deposits.....	42
Natural Resources	
Wildlife Resources	
No. 38168 (Amendment): R657-5 Taking Big Game.....	44
No. 38169 (Amendment): R657-12 Hunting and Fishing Accommodations for People with Disabilities.....	52
No. 38167 (Amendment): R657-13 Taking Fish and Crayfish.....	54
No. 38170 (Amendment): R657-38 Dedicated Hunter Program.....	61
No. 38171 (Amendment): R657-41 Conservation and Sportsman Permits.....	68
No. 38172 (New Rule): R657-67 Utah Hunter Mentoring Program.....	70
NOTICES 120-DAY (EMERGENCY) RULES	73
Administrative Services	
Finance	
No. 38174: R25-7 Travel-Related Reimbursements for State Employees.....	73

TABLE OF CONTENTS

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION..... 79

- Education
 - Administration
 - No. 38182: R277-116 Utah State Board of Education Internal Audit Procedure..... 79
 - No. 38184: R277-437 Student Enrollment Options..... 79
 - No. 38188: R277-495 Required Policies for Electronic Devices in Public Schools..... 80
 - No. 38189: R277-527 International Guest Teachers..... 80
 - School and Institutional Trust Lands
 - Administration
 - No. 38181: R850-110 Motor Vehicle Travel Designations..... 81

NOTICES OF FIVE YEAR EXPIRATIONS..... 83

- Health
 - Family Health and Preparedness, Primary Care and Rural Health
 - No. 38192: R434-40 Utah Health Care Workforce Financial Assistance Program Rules..... 83

NOTICES OF RULE EFFECTIVE DATES..... 85

2013 RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)..... 87

SPECIAL NOTICES

Insurance Administration

Public Hearing on Proposed Fees for Services Provided on Costs Incurred by the Utah Insurance Department During Fiscal Year 2014

A public hearing on the Proposed Fees for Services Provided on Costs Incurred by the Utah Insurance Department During Fiscal Year 2014 has been scheduled for Tuesday, January 14, 2014, at 9:00 AM in the State Office Bldg, 450 N State St, Room 3112, Salt Lake City, UT.

The purpose of the hearing is to obtain public comment regarding the following fee changes: 1) Global License Fees for Admitted Insurers, Certificate of Authority: Renewal changing from \$300 to \$500; Late Renewal changing from \$350 to \$550; Form A Filing changing from \$2,000 to \$4,000; 2) change in all premium bands of Global Service Fees for Admitted Insurers and Other Organizations; 3) change to Life Settlement Provider Renewal from \$300 to \$400; 4) changes in Initial, Renewal, and Reinstatement of Lapsed License for resident and non-resident Global Individual, Limited Line Producer, Global Full and Limited Line Agency, and Resident Title Licenses; 5) change to E-commerce fee for admitted insurers from \$75 to \$250; 6) change in Assessment for Health Actuary from \$150,000 to \$200,000; and 7) change in Bail Bond Resident Initial or Renewal license from \$250 to \$300 and Reinstatement of lapsed license from \$300 to \$350.

The schedule of fees and changes will be provided on the Department's website at:
<http://www.insurance.utah.gov/ruleindex.html> and at the hearing.

The proposed fee schedule has been submitted to the Utah Legislature for their review and approval during the 2014 General Legislative Session.

Written comments should be directed to Jilene Whitby at: jwhitby@utah.gov; FAX at: 801-538-3829; or mail to: State Office Bldg, 450 N State St, Room 3110, Salt Lake City, UT 84114-6901.

In compliance with the Americans with Disabilities Act, individuals desiring to attend the hearing who need special accommodations during the hearing (including auxiliary communicative aids and services) should notify us as directed above.

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between December 03, 2013, 12:00 a.m., and December 16, 2013, 11:59 p.m. are included in this, the January 01, 2014, 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 (example). Deletions made to existing rules are struck out with brackets surrounding them (~~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 usually printed. If a **PROPOSED RULE** is too long to print, the Division of Administrative Rules may 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 January 31, 2014. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through May 1, 2014, 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.

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, R15-4-5a, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page

Administrative Services, Finance
R25-7
Travel-Related Reimbursements for
State Employees

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38175

FILED: 12/12/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Because the IRS announced a rate decrease in per diem rate for private vehicle use from 56.5 cents per mile to 56 cents per mile, the Division has determined that the reimbursement rate for private vehicles should decrease to 56 cents per mile to avoid exceeding federal mileage reimbursement rates.

SUMMARY OF THE RULE OR CHANGE: The rule decreases reimbursement rate for mileage on private vehicles. (DAR NOTE: A corresponding 120-day (emergency) rule which is effective 01/01/2014 is under DAR No. 38174 in this issue, January 1, 2014, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63A-3-106 and Section 63A-3-107

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There will potentially be a decrease in cost to the state as mileage reimbursements are decreasing. However, the Division cannot determine exactly what the decrease will be because it is impossible to anticipate how much travel state employees will do.
- ◆ **LOCAL GOVERNMENTS:** There will not be costs to local governments because the rule only governs reimbursements by the state to individuals traveling on state business.
- ◆ **SMALL BUSINESSES:** Because this change deals only with reimbursement rates for mileage for state employees, small businesses are not affected.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Individuals eligible for reimbursement will see a decrease in their mileage reimbursement amounts for travel in private vehicles.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the amendment only changes mileage reimbursement rates and does not require any new action on the part of persons applying for reimbursements, there are not compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed these changes with the Division of Finance

Director and believe these changes are warranted. Individuals may see a slight decrease in reimbursement amounts. However, the division cannot determine exactly what the decrease will be as that depends on the amount of travel by individuals eligible for mileage reimbursement.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2014

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2014

AUTHORIZED BY: John Reidhead, Director

R25. Administrative Services, Finance.

R25-7. Travel-Related Reimbursements for State Employees.

R25-7-1. Purpose.

The purpose of this rule is to establish procedures to be followed by departments to pay travel-related reimbursements to state employees.

R25-7-2. Authority and Exemptions.

This rule is established pursuant to:

(1) Section 63A-3-107, which authorizes the Division of Finance to make rules governing in-state and out-of-state travel expenses; and

(2) Section 63A-3-106, which authorizes the Division of Finance to make rules governing meeting per diem and travel expenses for board members attending official meetings.

R25-7-3. Definitions.

(1) "Agency" means any department, division, commission, council, board, bureau, committee, office, or other administrative subunit of state government.

(2) "Board" means a board, commission, council, committee, task force, or similar body established to perform a governmental function.

(3) "Department" means all executive departments of state government.

(4) "Finance" means the Division of Finance.

(5) "Home-Base" means the location the employee leaves from and/or returns to.

(6) "Per diem" means an allowance paid daily.

(7) "Policy" means the policies and procedures of the Division of Finance, as published in the "Accounting Policies and Procedures."

(8) "Rate" means an amount of money.

(9) "Reimbursement" means money paid to compensate an employee for money spent.

(10) "State employee" means any person who is paid on the state payroll system.

R25-7-4. Eligible Expenses.

(1) Reimbursements are intended to cover all normal areas of expense.

(2) Requests for reimbursement must be accompanied by original receipts for all expenses except those for which flat allowance amounts are established.

R25-7-5. Approvals.

(1) For insurance purposes, all state business travel, whether reimbursed by the state or not, must have prior approval by an appropriate authority. This also includes non-state employees where the state is paying for the travel expenses.

(2) Both in-state and out-of-state travel must be approved by the Executive Director or designee. The approval of in-state travel reimbursement forms may be considered as documentation of prior approval for in-state travel. Prior approval for out-of-state travel should be documented on form FIS - "Request for Out-of-State Travel Authorization".

(3) Exceptions to the prior approval for out-of-state travel must be justified in the comments section of the Request for Out-of-State Travel Authorization, form FI 5, or on an attachment, and must be approved by the Department Director or the designee.

(4) The Department Director, the Executive Director, or the designee must approve all travel to out-of-state functions where more than two employees from the same department are attending the same function at the same time.

R25-7-6. Reimbursement for Meals.

(1) State employees who travel on state business may be eligible for a meal reimbursement.

(2) The reimbursement will include tax, tips, and other expenses associated with the meal.

(3) Allowances for in-state travel differ from those for out-of-state travel.

(a) The daily travel meal allowance for in-state travel is \$39.00 and is computed according to the rates listed in the following table.

.....

(b) The daily travel meal allowance for out-of-state travel is \$46.00 and is computed according to the rates listed in the following table.

.....

(4) When traveling to premium cities (New York, Los Angeles, Chicago, San Francisco, Washington DC, Boston, San Diego, Baltimore, and Arlington), the traveler may choose to accept the per

diem rate for out-of-state travel or to be reimbursed at the actual meal cost, with original receipts, up to \$62 per day.

(a) The traveler will qualify for premium rates on the day the travel begins and/or the day the travel ends only if the trip is of sufficient duration to qualify for all meals on that day.

(b) Complimentary meals of a hotel, motel and/or association and meals included in registration costs are deducted from the \$62 premium allowance as follows:

(i) If breakfast is provided deduct \$14, leaving a premium allowance for lunch and dinner of actual up to \$48.

(ii) If lunch is provided deduct \$19, leaving a premium allowance for breakfast and dinner of actual up to \$43.

(iii) If dinner is provided deduct \$29, leaving a premium allowance for breakfast and lunch of actual up to \$33.

(c) The traveler must use the same method of reimbursement for an entire day.

(d) Actual meal cost includes tips.

(e) Alcoholic beverages are not reimbursable.

(5) When traveling in foreign countries, the traveler may choose to accept the per diem rate for out-of-state travel or to be reimbursed the actual meal cost, with original receipts, not to exceed the United States Department of State Meal and Incidental Expenses (M and IE) rate for their location.

(a) The traveler may combine the reimbursement methods during a trip; however, they must use the same method of reimbursement for an entire day.

(b) Actual meal cost includes tips.

(c) Alcoholic beverages are not reimbursable.

(6) The meal reimbursement calculation is comprised of three parts:

(a) The day the travel begins. The traveler's entitlement is determined by the time of day the traveler leaves their home base (the location the employee leaves from and/or returns to), as illustrated in the following table.

.....

(b) The days at the location.

(i) Complimentary meals of a hotel, motel, and/or association and meals included in the registration cost are deducted from the total daily meal allowance.

(ii) Meals provided on airlines will not reduce the meal allowance.

(c) The day the travel ends. The meal reimbursement the traveler is entitled to is determined by the time of day the traveler returns to their home base, as illustrated in the following table.

.....

(7) An employee may be authorized by the Department Director or designee to receive a taxable meal allowance when the employee's destination is at least 100 miles from their home base and the employee does not stay overnight.

(a) Breakfast is paid when the employee leaves their home base before 6:00 a.m.

(b) Lunch is paid when the trip meets one of the following requirements:

- (i) The employee is on an officially approved trip that warrants entitlement to breakfast and dinner.
- (ii) The employee leaves their home base before 10 a.m. and returns after 2 p.m.
- (iii) The Department Director provides prior written approval based on circumstances.
- (c) Dinner is paid when the employee leaves their home base and returns at 7 p.m. or later.
- (d) The allowance is not considered an absolute right of the employee and is authorized at the discretion of the Department Director or designee.

R25-7-7. Meals for Statutory Non-Salaried State Boards.

- (1) When a board meets and conducts business activities during mealtime, the cost of meals may be charged as public expense.
- (2) Where salaried employees of the State of Utah or other advisors or consultants must, of necessity, attend such a meeting in order to permit the board to carry on its business, the meals of such employees, advisors, or consultants may also be paid. In determining whether or not the presence of such employees, advisors, or consultants is necessary, the boards are requested to restrict the attendance of such employees, advisors, or consultants to those absolutely necessary at such mealtime meetings.

R25-7-8. Reimbursement for Lodging.

State employees who travel on state business may be eligible for a lodging reimbursement.

- (1) For stays at a conference hotel, the state will reimburse the actual cost plus tax for both in-state and out-of-state travel. The traveler must include the conference registration brochure with the Travel Reimbursement Request, form FI 51A or FI 51B.
- (2) For in-state lodging at a non-conference hotel, the state will reimburse the actual cost up to \$65 per night for single occupancy plus tax except as noted in the table below:

.....

- (3) State employees traveling less than 50 miles from their home base are not entitled to lodging reimbursement. Miles are calculated from either the departure home-base or from the destination to the traveler's home-base. The traveler may leave from one home-base and return to a different home-base. For example, if the traveler leaves from their residence, then the home-base for departure calculations is their residence. If the traveler returns to where they normally work (ie. Cannon Health Building), then the home-base for arrival calculations is the Cannon Health Building.
 - (a) In some cases, agencies must use judgement to determine a traveler's home-base. The following are some things to consider when determining a traveler's home-base.
 - (i) Is the destination less than 50 miles from the traveler's home or normal work location? If the destination is less than 50 miles from either the traveler's home or from their normal work location, then generally the employee should not be reimbursed for lodging.
 - (ii) Is there a valid business reason for the traveler to go to the office (or to some other location) before driving to the destination?
 - (iii) Is the traveler required to work at the destination the next day?

- (iv) Is the traveler going directly home after the trip, or is there a valid business reason for the traveler to first go to the office (or to some other location)?
 - (iv) Even if "it is not specifically against policy", would the lodging be considered necessary, reasonable and in the best interest of the State?
 - (4) When the State of Utah pays for a person from out-of-state to travel to Utah, the in-state lodging per diem rates will apply.
 - (5) For out-of-state travel stays at a non-conference hotel, the state will reimburse the actual cost per night plus tax, not to exceed the federal lodging rate for the location. These reservations must be made through the State Travel Office.
 - (6) The state will reimburse the actual cost per night plus tax for in-state or out-of-state travel stays where the department/traveler makes reservations through the State Travel Office.
 - (7) Lodging is reimbursed at the rates listed in Table 5 for single occupancy only. For double state employee occupancy, add \$20, for triple state employee occupancy, add \$40, for quadruple state employee occupancy, add \$60.
 - (8) Exceptions will be allowed for unusual circumstances when approved in writing by the Department Director or designee prior to the trip.
 - (a) For out-of-state travel, the approval may be on the form FI 5.
 - (b) Attach the written approval to the Travel Reimbursement Request, form FI 51B or FI 51D.
 - (9) A proper receipt for lodging accommodations must accompany each request for reimbursement.
 - (a) The tissue copy of the charge receipt is not acceptable.
 - (b) A proper receipt is a copy of the registration form generally used by motels and hotels which includes the following information: name of motel/hotel, street address, town and state, telephone number, current date, name of person/persons staying at the motel/hotel, date(s) of occupancy, amount and date paid, signature of agent, number in the party, and (single, double, triple, or quadruple occupancy).
 - (10) When lodging is required, travelers should stay at the lodging facility nearest to the meeting/training/work location where state lodging per diem rates are accepted in order to minimize transportation costs.
 - (11) Travelers may also elect to stay with friends or relatives or use their personal campers or trailer homes instead of staying in a hotel.
 - (a) With proof of staying overnight away from home on approved state business, the traveler will be reimbursed the following:
 - (i) \$25 per night with no receipts required or
 - (ii) Actual cost up to \$40 per night with a signed receipt from a facility such as a campground or trailer park, not from a private residence.
 - (12) Travelers who are on assignment away from their home base for longer than 90 days will be reimbursed as follows:
 - (a) First 30 days - follow regular rules for lodging and meals. Lodging receipt is required.
 - (b) After 30 days - \$46 per day for lodging and meals. No receipt is required.

R25-7-9. Reimbursement for Incidentals.

State employees who travel on state business may be eligible for a reimbursement for incidental expenses.

(1) Travelers will be reimbursed for actual out-of-pocket costs for incidental items such as baggage tips and transportation costs.

(a) Tips for maid service, doormen, and meals are not reimbursable.

(b) No other gratuities will be reimbursed.

(c) Include an original receipt for each individual incidental item above \$19.99.

(2) The state will reimburse incidental ground transportation and parking expenses.

(a) Travelers shall document all official business use of taxi, bus, parking, and other ground transportation including dates, destinations, parking locations, receipts, and amounts.

(b) Personal use of such transportation to restaurants is not reimbursable.

(c) The maximum that airport parking will be reimbursed is the economy lot parking rate at the airport they are flying out of. A receipt is required for amounts of \$20 or more.

(3) Registration should be paid in advance on a state warrant.

(a) A copy of the approved FI 5 form must be included with the Payment Voucher for out-of-state registrations.

(b) If a traveler must pay the registration when they arrive, the agency is expected to process a Payment Voucher and have the traveler take the state warrant with them.

(4) Telephone calls related to state business are reimbursed at the actual cost.

(a) The traveler shall list the amount of these calls separately on the Travel Reimbursement Request, form FI 51A or FI 51B.

(b) The traveler must provide an original lodging receipt or original personal phone bill showing the phone number called and the dollar amount for business telephone calls and personal telephone calls made during stays of five nights or more.

(5) Allowances for personal telephone calls made while out of town on state business overnight will be based on the number of nights away from home.

(a) Four nights or less - actual amount up to \$2.50 per night (documentation is not required for personal phone calls made during stays of four nights or less)

(b) Five to eleven nights - actual amount up to \$20.00

(c) Twelve nights to thirty nights - actual amount up to \$30.00

(d) More than thirty days - start over

(6) Actual laundry expenses up to \$18.00 per week will be allowed for trips in excess of six consecutive nights, beginning after the sixth night out.

(a) The traveler must provide receipts for the laundry expense.

(b) For use of coin-operated laundry facilities, the traveler must provide a list of dates, locations, and amounts.

(7) An amount of \$5 per day will be allowed for travelers away in excess of six consecutive nights beginning after the sixth night out.

(a) This amount covers miscellaneous incidentals not covered in this rule.

(b) This allowance is not available for travelers going to conferences.

(8) Travel on a Weekend during Trips of More Than 10 Nights' Duration - A department may provide for employees to return home on a weekend when a trip extends longer than ten nights. Reimbursements may be given for costs allowed by these policies.

R25-7-10. Reimbursement for Transportation.

State employees who travel on state business may be eligible for a transportation reimbursement.

(1) Air transportation is limited to Air Coach or Excursion class. Priority seating charges will not be reimbursed unless preapproved by the department director or designee.

(a) All reservations (in-state and out-of-state) should be made through the State Travel Office for the least expensive air fare available at the time reservations are made.

(b) Only one change fee per trip will be reimbursed.

(c) The explanation for the change and any other exception to this rule must be given and approved by the Department Director or designee.

(d) In order to preserve insurance coverage and because of federal security regulations, travelers must fly on tickets in their names only.

(2) Travelers may be reimbursed for mileage to and from the airport and long-term parking or away-from-the-airport parking.

(a) The maximum reimbursement for parking, whether travelers park at the airport or away from the airport, is the economy lot parking rate at the airport they are flying out of.

(b) The parking receipt must be included with the Travel Reimbursement Request, form FI 51A or FI 51B for amounts of \$20 or more.

(c) Travelers may be reimbursed for mileage to and from the airport to allow someone to drop them off and to pick them up.

(3) Travelers may use private vehicles with approval from the Department Director or designee.

(a) Only one person in a vehicle may receive the reimbursement, regardless of the number of people in the vehicle.

(b) Reimbursement for a private vehicle will be at the rate of 38 cents per mile or ~~56.5~~56 cents per mile if a state vehicle is not available to the employee.

(i) To determine which rate to use, the traveler must first determine if their department has an agency vehicle (long-term leased vehicle from Fleet Operations) that meets their needs and is reasonably available for the trip (does not apply to special purpose vehicles). If reasonably available, the employee should use an agency vehicle. If an agency vehicle that meets their needs is not reasonably available, the agency may approve the traveler to use either a daily pool fleet vehicle or a private vehicle. If a daily pool fleet vehicle is not reasonably available, the traveler may be reimbursed at ~~56.5~~56 cents per mile.

(ii) If a trip is estimated to average 100 miles or more per day, the agency should approve the traveler to rent a daily pool fleet vehicle if one is reasonably available. Doing so will cost less than if the traveler takes a private vehicle. If the agency approves the traveler to take a private vehicle, the employee will be reimbursed at the lower rate of 38 cents per mile.

(c) Agencies may establish a reimbursement rate that is more restrictive than the rate established in this Section.

(d) Exceptions must be approved in writing by the Director of Finance.

(e) Mileage will be computed using Mapquest or other generally accepted map/route planning website, or from the latest official state road map and will be limited to the most economical, usually traveled routes.

(f) If the traveler uses a private vehicle on official state business and is reimbursed for mileage, parking charges may be reimbursed as an incidental expense.

(g) An approved Private Vehicle Usage Report, form FI 40, should be included with the department's payroll documentation reporting miles driven on state business during the payroll period.

(h) Departments may allow mileage reimbursement on an approved Travel Reimbursement Request, form FI 51A or FI 51B, if other costs associated with the trip are to be reimbursed at the same time.

(4) A traveler may choose to drive instead of flying if preapproved by the Department Director or designee.

(a) If the traveler drives a state-owned vehicle, the traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of the airline trip. The traveler may also be reimbursed for incidental expenses such as toll fees and parking fees.

(b) If the traveler drives a privately-owned vehicle, reimbursement will be at the rate of 38 cents per mile or the airplane fare, whichever is less, unless otherwise approved by the Department Director or designee.

(i) The lowest fare available within 30 days prior to the departure date will be used when calculating the cost of travel for comparison to private vehicle cost.

(ii) An itinerary printout which is available through the State Travel Office is required when the traveler is taking a private vehicle.

(iii) The traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of an airline trip.

(iv) If the traveler uses a private vehicle on official state business and is reimbursed for mileage, parking charges may be reimbursed as an incidental expense.

(c) When submitting the reimbursement form, attach a schedule comparing the cost of driving with the cost of flying. The schedule should show that the total cost of the trip driving was less than or equal to the total cost of the trip flying.

(d) If the travel time taken for driving during the employee's normal work week is greater than that which would have occurred had the employee flown, the excess time used will be taken as annual leave and deducted on the Time and Attendance System.

(5) Use of rental vehicles must be approved in writing in advance by the Department Director or designee.

(a) An exception to advance approval of the use of rental vehicles shall be fully explained in writing with the request for reimbursement and approved by the Department Director or designee.

(b) Detailed explanation is required if a rental vehicle is requested for a traveler staying at a conference hotel.

(c) When making rental car arrangements through the State Travel Office, reserve the vehicle you need. Upgrades in size or model made when picking up the rental vehicle will not be reimbursed.

(i) State employees should rent vehicles to be used for state business in their own names, using the state contract so they will have full coverage under the state's liability insurance.

(ii) Rental vehicle reservations not made through the State Travel Office must be approved in advance by the Department Director or designee.

(iii) The traveler will be reimbursed the actual rate charged by the rental agency.

(iv) The traveler must have approval for a rental car in order to be reimbursed for rental car parking.

(6) Travel by private airplane must be approved in advance by the Department Director or designee.

(a) The pilot must certify to the Department Director or designee that the pilot is certified to fly the plane being used for state business.

(b) If the plane is owned by the pilot/employee, the pilot must certify the existence of at least \$500,000 of liability insurance coverage.

(c) If the plane is a rental, the pilot must provide written certification from the rental agency that the insurance covers the traveler and the state as insured. The insurance must be adequate to cover any physical damage to the plane and at least \$500,000 for liability coverage.

(d) Reimbursement will be made at [~~\$6.5~~]56 cents per mile.

(e) Mileage calculation is based on air mileage and is limited to the most economical, usually-traveled route.

(7) Travel by private motorcycle must be approved prior to the trip by the Department Director or designee. Travel will be reimbursed at 20 cents per mile.

(8) A car allowance may be allowed in lieu of mileage reimbursement in certain cases. Prior written approval from the Department Director, the Executive Director of the Department of Administrative Services, and the Governor is required.

KEY: air travel, per diem allowances, state employees, transportation

Date of Enactment or Last Substantive Amendment: [~~June 21, 2013~~]2014

Notice of Continuation: April 15, 2013

Authorizing, and Implemented or Interpreted Law: 63A-3-107; 63A-3-106

Commerce, Occupational and Professional Licensing **R156-72** Acupuncture Licensing Act Rule

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 38165

FILED: 12/03/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Acupuncture Licensing Board are proposing amendments to implement and more clearly define the provisions of S.B. 101 which was passed during the 2012 General Legislative Session.

SUMMARY OF THE RULE OR CHANGE: In Section R156-72-102, adds necessary definitions, as specified in S.B. 101, "administering" and "modern research". Additionally, amendments define controlled substance, legend drug, and clarify that the insertion of acupuncture needles includes but is not limited to trigger point therapy, Ahshi points, and dry needling techniques; and defines NCCAOM as the National Certification Commission for Acupuncture and Oriental Medicine. In Section R156-72-302d, unprofessional conduct definitions are added with respect to failing to obtain education and training recognized by NCCAOM if performing acupoint therapy injections and administering venous injections, immunizations, legend drugs, and controlled substances.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-72-101 and Subsection 58-1-106(1) (a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
- ◆ **LOCAL GOVERNMENTS:** The proposed amendments only apply to licensed acupuncturists and applicants for licensure in that classification. As a result, the proposed amendments do not apply to local governments.
- ◆ **SMALL BUSINESSES:** The proposed amendments only apply to licensed acupuncturists and applicants for licensure in that classification. Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments only apply to licensed acupuncturists and applicants for licensure in that classification. The Division does not anticipate any additional costs or savings as a result of the proposed amendments beyond those previously considered by the Legislature in the passing of S.B. 101.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed acupuncturists and applicants for licensure in that classification. The Division does not anticipate any additional costs or savings as a result of the proposed amendments beyond those previously considered by the Legislature in the passing of S.B. 101.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As explained in the rule analysis, this filing establishes definitions for terms that were introduced into statute during the 2012 General Legislative Session (S.B. 101) and requires persons who practice acupuncture to understand and comply with recognized standards. No fiscal impact to businesses is anticipated.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2014

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

- ◆ 01/21/2014 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 402 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2014

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-72. Acupuncture Licensing Act Rule.**

R156-72-102. ~~[Reserved.]~~Definitions.

~~[Reserved.]~~In addition to the definitions in Title 58, Chapters 1 and 72, as used in this rule:

(1) "Administration", as used in Subsection 58-72-102(4) (b)(ii), means the direct application of an herb, homeopathic, or supplement by ingestion, topical, inhalation, or acupoint injection therapy (AIT), to the body of a patient. Administration does not include: venous injections, immunizations, legend drugs and controlled substances.

(2) "Controlled substance" means a drug or substance as defined in Subsection 58-37-2(1)(f).

(3) "Legend drug" means a prescription drug as defined in Subsections 58-17b-102(30) and (61).

(4) "Insertion of acupuncture needles" means a procedure of acupuncture and oriental medicine which includes but is not limited to trigger point therapy, Ahshi points and dry needling techniques.

(5) "NCCAOM" means the National Commission for the Certification of Acupuncture and Oriental Medicine.

(6) "Modern research" means practicing according to acupuncture and oriental medicine training as recognized through NCCAOM.

R156-72-302d. Unprofessional Conduct.

"Unprofessional conduct" includes:

- (1) failing to maintain office, instruments, equipment, appliances, and supplies in a safe and sanitary condition;

(2) failing as a licensee to maintain the professional development activity requirements, as required by the NCCAOM;

(3) failing to abide by and meet standards of the "Code of Ethics" set by NCCAOM, adopted on October 14, 2008, which are hereby incorporated by reference; ~~and~~

(4) failing to maintain medical records for a ten-year period;

(5) failing to obtain education and training recognized by NCCAOM if performing acupuncture therapy injections; and

(6) administering venous injections, immunizations, legend drugs and controlled substances.

KEY: acupuncture, licensing

Date of Enactment or Last Substantive Amendment: [~~May 26, 2011~~2014]

Notice of Continuation: October 20, 2011

Authorizing, and Implemented or Interpreted Law: 58-72-101; 58-1-106(1)(a); 58-1-202(1)(a)

Education, Administration

R277-116

Utah State Board of Education Internal Audit Procedure

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38183

FILED: 12/16/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to add additional Internal Auditor authority and responsibilities.

SUMMARY OF THE RULE OR CHANGE: The amendments add a requirement for the Internal Auditor to manage the responsibilities of a statewide hotline for fraud, waste, and abuse involving programs and entities supervised by the Utah State Board of Education and to meet semi-annually with the Board Audit Committee Chair.

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

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The additional requirements of the Internal Auditor will be administered with existing staff and within existing budgets.

♦ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. The additional requirements of the Internal Auditor do not involve school districts or schools.

♦ **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 additional requirements apply to the Internal Auditor.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance costs for affected persons. The Internal Auditor will manage the additional requirements as directed by this 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 01/31/2014

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2014

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

R277. Education, Administration.

R277-116. Utah State Board of Education Internal Audit Procedure.

R277-116-1. Definitions.

A. "Appointing authority" means the Board.

B. "Audit" means internal reviews or analyses or a combination of both of Utah State Board of Education programs, activities and functions that may address one or more of the following objectives:

(1) to verify the accuracy and reliability of USOE or Board records;

(2) to assess compliance with management policies, plans, procedures, and regulations;

(3) to assess compliance with applicable laws, rules and regulations;

(4) to evaluate the efficient and effective use and protection of Board, state, or federal resources; or

(5) to verify the appropriate protection of USOE assets;

(6) to review and evaluate internal controls over LEA and USOE accounting systems, administrative systems, electronic data processing systems, and all other major systems necessary to ensure the fiscal and administrative accountability of LEAs and the USOE.

C. "Audit Committee" means a standing committee appointed by the Board which shall consist of all members of the Finance ~~and Audit~~ Committee. The Chair of the Audit Committee shall be either the Board Chair or Board Vice Chair.

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

E. "Internal Auditor" means person or persons appointed by the Superintendent with the consent of the Audit Committee and the full Board to direct the internal audit function for the Board and USOE.

F. "LEA," for purposes of this rule, means any local education agency under the supervision of the Board including any sub unit of school districts, Utah Schools for the Deaf and the Blind, ~~[Utah State Office of Rehabilitation],~~ and charter schools ~~[- regional service centers, area technology centers and vocational programs].~~

~~G. "Subrecipient," for purposes of this rule, means any entity awarded funds through a sub-award, contract, or designated to receive an appropriation for programs supervised by the Board.~~

~~[G]H.~~ "Superintendent" means the State Superintendent of Public Instruction, who is the Agency Head within the meaning of the Utah Internal Audit Act.

~~[H]I.~~ "Survey work" means an internal review of Board rules, statutes, federal requirements and a limited sample of an LEA's programs, activities or documentation that may give rise to or refute the need for a more comprehensive audit. The preliminary or limited information derived from survey work is a part of the ongoing audit process and may be provided as a draft to the Audit Committee, to the Board or to the Superintendent upon request.

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

~~K. "USOR" means the Utah State Office of Rehabilitation.~~

R277-116-2. 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-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, Section 53A-1-405 which makes the Board responsible for verifying audits of local school districts, Section 53A-1-402(1)(e) which directs the Board to develop rules and minimum standards regarding cost effectiveness measures, school budget formats and financial accounting requirements for the local school districts, Section 53A-17a-147(2) which directs the Board to assess the progress and effectiveness of local school districts and programs funded under the Minimum School Program and report its findings to the Legislature, and by Section 63I-5-101 through 401 which provides standards and procedures for the Board, as the appointing authority for the USOE, to establish an internal audit program.

B. The purpose of this rule is to outline the Board's criteria and procedures for internal audits of programs under its supervision.

R277-116-3. Audit Committee Responsibilities.

The Audit Committee shall:

A. determine the priority for survey work or audits to be performed based on recommendations from the Internal Auditor, Audit Committee requests or correspondence, other Board member requests, or USOE staff recommendations;

B. consent to the appointment or removal of the Internal Auditor.

C. review and approve the annual internal audit plan and budget;

D. review internal and external audit reports, survey work, follow-up reports, and quality assurance reviews of the Internal Auditor;

E. meet at each regularly scheduled Board meeting with the Internal Auditor to discuss ongoing audits, audit priorities and progress, and other issues;

F. distribute drafts or preliminary versions of audits only to Board members, as requested, or auditees. Internal audits that have not been reviewed in final form by the Audit Committee, the auditee, and the Board are drafts and, as such, are not public records;

G. determine the distribution of audit findings in any or all stages or reports to other Board members as well as to other interested parties;

H. review the findings and recommendations of the Internal Auditor and make recommendations for action on the findings to the Board; and

I. evaluate the Internal Auditor at least annually in a formal evaluation process.

R277-116-4. Internal Auditor Authority and Responsibilities.

A. The Internal Auditor shall work closely with and receive regular supervision from the Superintendent.

B. The Internal Auditor shall report initially to the Superintendent. Following the Superintendent's response, the Internal Auditor reports to the Audit Committee and ultimately to the Board.

C. The Internal Auditor's work shall be determined primarily by a risk assessment developed by the Internal Auditor and approved by the Audit Committee at least annually. The risk assessment shall:

(1) consider public education programs for which the Board has responsibility;

(2) consider and evaluate which public education programs, activities or responsibilities are most critical to:

- (a) student safety;
- (b) student achievement;
- (c) efficient management of public education resources;

~~[-and]~~

(d) the priorities of public education as determined by the Board~~[-]; and~~

~~(e) USOR risks and efficient management of USOR programs supervised by the Board.~~

D. The Internal Auditor shall meet with the Audit Committee or the Board, at the direction of either, to inform both the Audit Committee and the Board of progress on assigned audits and any additional information or assignments requested by the Audit Committee or the Board.

E. The Internal Auditor shall conduct audits as recommended by the Audit Committee, and as directed by the

Board, including economy and efficiency audits, program audits, and financial-related audits of any [program,]function, LEA, or [division]program under the Board's supervision, or as otherwise directed by the Board.

F. The Internal Auditor is authorized to manage a statewide hotline to receive and investigate allegations of fraud, waste and abuse over programs and entities supervised by the Board.

[F]G. The Internal Auditor shall immediately notify the Audit Committee and the Board of any irregularity or serious deficiency discovered in the audit process or of any impediment or conflict to accomplishing an audit as directed by the Board.

[G]H. The Internal Auditor shall submit a written report to the Audit Committee and the Board of each authorized audit within a reasonable time after completion of the audit.

[H]I. The Internal Auditor shall maintain the classification of any public records consistent with Title 63G, Chapter 2, Government Records Access and Management Act.

[I]J. Audit Committee members, Board members and USOE employees shall maintain information acquired in the audit process in the strictest confidence consistent with the Public Employees Ethics Act, Section 67-1[4]6-4.

[J]K. The Internal Auditor shall have access to all records, personnel, and physical materials relevant and necessary to conduct audits of all programs and agencies supervised by the Board. All public education entities shall cooperate fully with Internal Auditor requests; The Internal Auditor is not required to issue subpoenas or make GRAMA requests under Section 63G-2-202 to receive requested information from public education entities.

L. The Internal Auditor shall meet at least semi-annually with the Audit Committee Chair to review the performance of the Internal Audit Division and discuss matters of concern, resources, and other issues.

R277-116-5. Audit Plans.

A. An audit plan shall be prepared by the Internal Auditor and shall:

- (1) be reviewed regularly by both the Superintendent and the Audit Committee;
- (2) identify the individual audits to be conducted during each year;
- (3) determine the adequacy and efficiency of the USOE's internal monitoring and control of programs and personnel;
- (4) identify the related resources to be devoted to each of the respective audits; and
- (5) ensure that audits that evaluate the efficient and effective use of public education resources are adequately represented in the plan.

B. The Internal Auditor shall submit the audit plan first to the Superintendent for review, next to the Audit Committee for review, modification, update, and approval. Each audit plan shall expressly state an anticipated completion date.

C. The Internal Auditor shall:

- (1) ensure that audits are conducted in accordance with professional auditing standards such as those published by the Institute of Internal Auditors, Inc., the American Institute of Certified Public Accountants, and, when required by other law, regulation, agreement, contract, or policy, in accordance with

Government Auditing Standards, issued by the Comptroller General of the United States;

(a) all reports of audit findings issued by internal audit staff shall include a statement that the audit was conducted according to the appropriate standards;

(b) public release of reports of audit findings shall comply with the conditions specified by state laws and rules governing the USOE.

(2) report concerns to the Audit Committee or the Board that arise as the result of survey work or audits that necessitate a direct review of the Superintendent's activities or actions;

(3) report significant audit matters that cannot be appropriately addressed by the Audit Committee and the Board to either the Office of Legislative Auditor General or the Office of the State Auditor;

(4) report quarterly to the full Board those issues which have the potential of opening up the Board, Superintendent, or USOE to liability or litigation;

(5) conduct at least annually a risk assessment of the entire public education system and report the findings to the Audit Committee; and

(6) regularly attend all Board meetings.

KEY: educational administration

Date of Enactment or Last Substantive Amendment:

[September 21, 2012]2014

Notice of Continuation: December 16, 2013

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-1-405; 53A-1-402(1)(e); 53A-17a-147(2); 63I-5-101 through 401

Education, Administration **R277-437** Student Enrollment Options

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 38185

FILED: 12/16/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to update rule language and make wording changes.

SUMMARY OF THE RULE OR CHANGE: Minor language and wording changes are made throughout the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-2-206.5 and Subsection 53A-1-402(1)(b)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. Minor wording and language changes do not result in a cost or savings.

♦ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. The minor wording and language changes do not result in a cost or savings.

♦ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule and the amendments 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 minor wording and language changes do not result in a cost or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. There is no associated compliance requirement because of the minor wording and language changes.

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 01/31/2014

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2014

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

R277. Education, Administration.

R277-437. Student Enrollment Options.

R277-437-1. Definitions.

A. "Available school or program" means a school or program currently designated under the law and this rule by a district as open to nonresident students.

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

C. "District of residence" means a student's school district of residence under Section 53A-2-201.

D. "Nonresident student" means a student attending or seeking to attend a school other than the designated school of residence.

E. "Residual per student expenditure" means the expenditure based on the most recent State Superintendent's Annual Report according to the following formula:

(1) Take total expenditures before interfund transfer for:

- (a) maintenance and operation;
- (b) tort liability; and
- (c) capital projects.

(2) Subtract from the sum of (1), above:

(a) resident district's taxes collected under the Minimum School Program;

(b) state revenue;

(c) federal revenue; and

(d) expenditures for site acquisition or new facility construction (new facility construction includes remodeling that increases building square footage or other major remodeling, if approved by the USOE Director of Finance).

(3) Divide the remainder of (1) and (2) above by the total student membership of the district as reported in the most recent State Superintendent's Annual Report.

F. "Safety emergency" means a situation in which:

(1) enrollment in a specific school is necessary to protect the health of the student as determined by a specific medical recommendation from a medical doctor; or

(2) enrollment in a specific school is necessary to protect the emotional or physical safety of a student, based on documentation/evidence provided by the student's previous school, the parent(s)/guardian(s), a clinical psychologist who is tracking the student, or cumulative information.

G. "School of residence" means the school which a student would normally attend in the student's district of residence.

H. "School into which the school's students feed" for purposes of this rule means school boundaries and feeder systems as determined by the local board of education which may change over time.

I. "Serious infraction of the law or school rules" means chronic misbehavior by a student which is likely, if it were to continue after the student was admitted, to endanger persons or property, cause serious disruptions in the school, or to place unreasonable burdens on school staff.

J. "USOE" means the Utah State Office of Education.

R277-437-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which places general control and supervision of the public school system under the Board, by 53A-1-402(1)(b) which directs the Board to establish rules and minimum standards for access to programs and by 53A-2-210 which directs the Board to provide a formula by rule for resident students who attend school districts under Section 53A-2-206.5 et seq. This rule is consistent with federal laws and regulations, including the Individuals with Disabilities Act (IDEA), 20 U.S.C., Chapter 33, Section 1412 as amended by Public Law 102-119, and the Elementary and Secondary Education Act of 2001 (ESEA), P.L. 107-110.

B. The purpose of this rule is:

(1) to establish necessary definitions;

(2) to establish a formula for the residual per pupil expenditure for school districts to reimburse each other for full and part-time nonresident students;

(3) to summarize school, school district, and state responsibilities under Section 53A-2-206.5; and

(4) to provide a standard statewide open enrollment form required under Section 53A-2-207(4)(b).

R277-437-3. Local School Board and District Responsibilities.

A. ~~[Prior to September 30, 2008, a]~~ local board shall ~~[announce]~~ have policies describing procedures for students to follow in applying to attend schools other than their respective schools of residence. Local school boards shall designate which schools and programs will be available for open enrollment during the coming school year consistent with the definitions and timelines of Section 53A-2-206.5 et seq.

B. The school district shall adjust timelines for open enrollment applications if the district is developing a district-wide reconfiguration of its schools consistent with Section 53A-2-206.5(1).

C. A school district may establish longer or broader timelines for enrollment than required by law.

D. If construction, remodeling, or other circumstances beyond the control of the local board do not reasonably permit the local board to make sufficiently accurate enrollment projections for a given school to determine whether the school should be designated as available for open enrollment for the coming year, the local board shall designate delays and procedures consistent with Section 53A-2-207(4)(c).

E. As required under Subsection 53A-2-210(2), a resident district shall pay to a nonresident district one-half of the resident district's residual per student expenditure for each resident student properly registered in the nonresident district.

F. Each local board shall establish a procedure to consider appeals of any denial of initial or continued enrollment of a nonresident student under Subsection 53A-2-209(1).

G. A local board of education may deny enrollment of nonresident students for reasons identified in R277-437-11.

H. ~~[There shall be no presumption of]~~ This rule does not govern eligibility for students to participate in activities ~~[governed]~~ supervised by the Utah High School Activities Association (UHSAA) if students transfer under Section 53A-2-206.5.

R277-437-4. State Board of Education Responsibilities.

A. Capacity for special education classrooms shall:

(1) be consistent with Utah Special Education Caseload Guidelines; and

(2) depend on staffing and funding constraints of the receiving school district.

B. A model standard enrollment options application form shall be available on the USOE website ~~[by May 15, 2008]~~.

R277-437-5. Transportation.

A school district may transport its students to schools in other districts under Subsection 53A-2-210(3)(b)(i).

KEY: public education, enrollment options

Date of Enactment or Last Substantive Amendment: ~~[July 9, 2012]~~ 2014

Notice of Continuation: December 16, 2013

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(1)(b); 53A-2-210; 53A-2-206.5 et seq.

Education, Administration
R277-470-6
Charter School Mentoring Program

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38186

FILED: 12/16/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R277-470-6 is amended to allow for greater flexibility and simplicity in distribution of funds for the Charter School Mentoring Program.

SUMMARY OF THE RULE OR CHANGE: The amendments remove restrictive requirements for allowable expenditures and reimbursement for charter schools participating in the Charter School Mentoring Program.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 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 provide for greater flexibility in distributing funds for charter school participating in the Charter School Mentoring Program.

♦ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. The changes provide for greater flexibility in distributing funds for charter school participating in the Charter School Mentoring Program.

♦ **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 provide for greater flexibility in distributing funds for charter school participating in the Charter School Mentoring Program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The changes provide for greater flexibility in distributing funds for charter school participating in the Charter School Mentoring Program.

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 01/31/2014

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2014

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

R277. Education, Administration.
R277-470. Charter Schools - General Provisions.
R277-470-6. Charter School Mentoring Program.

A. Board-approved or existing charter schools may choose to participate in the mentoring program.

B. Charter schools choosing to participate in the mentoring program shall submit an application to the USOE, consistent with USOE timelines.

C. Subject to the availability of funds, participating charter schools shall be eligible for reimbursement of ~~[allowable]~~ approved expenditures through the mentoring program if the charter school[-:

- ~~(1) submits an approved reimbursement form[-and~~
- ~~(2) submits an approved mentor and program evaluation.~~
- D. ~~Allowable expenditures in the mentoring program include all reasonable expenditures, including:~~
 - ~~(1) mileage for mentor to and from home base to participating charter school, consistent with the USOE adopted travel policy;~~
 - ~~(2) lodging consistent with the USOE adopted travel policy;~~
 - ~~(3) meals consistent with the USOE adopted travel policy;~~
 - ~~(4) substitute per diem (paid to mentor's employer) if the mentor has to miss work and a substitute is necessary;~~
 - ~~(5) payment for mentors and teacher stipend, or both, consistent with USOE policy; and~~
 - ~~(6) supplies and materials used in the training, consistent with USOE policy].~~

[E]D. A mentor shall submit an application to the State Charter School Board to participate in the mentoring program that identifies areas of expertise and demonstrated competencies.

- [F]E. The State Charter School Board shall:
- (1) receive an annual program report from the USOE; and
 - (2) evaluate the mentoring program annually[-;
 - ~~(3) publish, on its website, information from participating schools regarding mentor evaluations; and~~

~~(4) maintain a list of approved mentors].~~

KEY: education, charter schools
Date of Enactment or Last Substantive Amendment: [~~October 8, 2013~~]2014
Notice of Continuation: August 2, 2013
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1a-515; 53A-1a-505; 53A-1a-513; 53A-1-401(3); 53A-1a-510; 53A-1a-519; 53A-1a-501.5; 53A-1-301; 53A-1a-502.5; 53-8-211; 62A-4a-403; 53A-11-605; 53A-1a-522; 53A-1a-521; 53A-1a-501.3; 53A-1a-513.5

Education, Administration
R277-481
 Charter School Oversight, Monitoring
 and Appeals

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 38187
 FILED: 12/16/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to modify the responsibilities of a charter school governing board and the Utah State Board of Education (Board).

SUMMARY OF THE RULE OR CHANGE: The amendments add language providing for charter school governing board approval for specific purposes and for Board approval for specific purposes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 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 amendments provide additional approval processes for the Utah State Board of Education in which costs or savings are not affected.
 - ♦ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. The amendments provide additional approval processes for charter school governing boards in which costs or savings are not affected.
 - ♦ **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 amendments provide additional approval processes for

charter school governing boards and the Utah State Board of Education in which costs or savings are not affected.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Charter school governing boards and the Utah State Board of Education will adhere to the approval processes of this 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 01/31/2014

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2014

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

R277. Education, Administration.

R277-481. Charter School Oversight, Monitoring and Appeals.

R277-481-1. Definitions.

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

B. "Chartering entities" means entities that authorize a charter school under Section 53A-1a-501.3([2]3).

C. "Charter schools" means schools acknowledged as charter schools by chartering entities under Sections 53A-1a-515, 53A-1a-521, and this rule or by the Board under Section 53A-1a-505.

D. "Charter school agreement (charter agreement)" means the terms and conditions for the operation of an approved charter school. The charter school agreement shall be maintained at the USOE and is considered the final, official and complete agreement.

E. "Charter school deficiencies" means the following information:

(1) a charter school is not satisfying financial, academic or operational obligations as required in its charter agreement;

(2) a charter school is not providing required documentation after being placed on warning status;

(3) compelling evidence of fraud or misuse of funds by charter school governing board members or employees. Fraud or misuse of funds need not rise to the minimal standard. It may

include failure to properly account for funds received at the school; failure to follow regularly established accounting and receipting practices or failure to provide data, financial records or information as requested by the State Charter School Board or the Board.

F. "Charter school governing board" means the board designated by the charter school to make decisions for the operation of the school.

G. "Probation" means a formal process and time period during which a school is permitted to demonstrate its full compliance with its charter agreement and all applicable laws, rules and regulations.

H. "State Charter School Board" means the board designated in Section 53A-1a-501.5.

I. "Superintendent" means the State Superintendent of Public Instruction as designated under Section 53A-1-301.

J. "USOE" means the Utah State Office of Education.

K. "Warning status" means an informal status in which a school is placed through written notification from the USOE for the school's failure to maintain compliance with its charter agreement, applicable laws, rules or regulations.

R277-481-2. Authority and Purpose.

A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and 20 U.S.C., Section 8063(3) which directs the Board to submit specific information prior to charter schools' receipt of federal funds.

B. The purpose of this rule is to establish procedures for oversight and monitoring charter agreements and charter schools for compliance with minimum standards. The rule also provides appeals criteria and a process for schools found out of compliance with chartering entity findings.

R277-481-3. State Charter School Board Oversight, Minimum Standards, and Consequences.

A. The State Charter School Board shall provide direct oversight to the charter schools for which it is the chartering entity, including requiring all charter schools to:

(1) comply with their charter agreements containing clear and meaningful expectations for measuring charter school quality.

(2) annually review charter agreements, as maintained by the USOE;

(3) regularly review other matters specific to effective charter school operations, including a comprehensive review of governing board performance at least once every five years; and

(4) audit and investigate claims of fraud or misuse of public assets or funds.

B. All charter schools authorized by the State Charter School Board shall also meet the following minimum standards:

(1) charter schools shall have no unresolved material findings, financial condition findings or repeat significant findings in the school's independent financial audit, federal single audit or USOE audits;

(2) charter schools shall maintain a minimum of 30 days cash on hand or the cash or other reserve amount required in bond covenants, whichever is greater;

(3) charter schools shall have no violations of federal or state law or regulation, Board rules or Board directives;

(4) charter schools shall have all teachers properly licensed and endorsed for teaching assignments in CACTUS; and

(5) charter school governing boards shall ensure all employees and board members have criminal background checks on file.

C. Warning status

(1) A charter school that fails to meet any of the minimum standards or a significant number of performance standards may be placed on warning status and notified in writing by the USOE.

(2) While a school is on warning status, the school may seek technical assistance from the USOE staff to remedy any deficiencies.

D. Probation status

(1) If any minimum standard or a significant number of performance standards has not been met by an assigned date following designation of warning status, the State Charter School Board shall notify the school in writing of the specific minimum standard(s) the school did not meet.

(2) Based on the State Charter School Board's review of the charter school's noncompliance, progress and response to technical assistance, the State Charter School Board may place the school on probation for up to one calendar year following the designation of warning status.

(3) Upon placing a school on probation, the State Charter School Board shall set forth a written plan outlining those provisions in the charter agreement, applicable laws, rules and regulations with which the school is not in full compliance. This written plan shall set forth the terms and conditions and the timeline that the school shall follow in order to be removed from probation.

(4) If the school complies with the written plan in a timely manner, the State Charter School Board shall remove the school from probation.

(5) While a school is on probation, it shall be required to satisfy certain requirements and conditions set forth by the State Charter School Board. If the school fails to satisfy specific requirements and conditions by a date established by the State Charter School Board, the State Charter School Board may terminate the school's charter.

(6) While a school is on probation, the school may seek technical assistance from the USOE staff to remedy any deficiencies.

(7) The State Charter School Board may, for good cause, or if the health, safety, or welfare of the students at the school is threatened at any time during the probationary period, terminate the charter immediately.

R277-481-4. Charter School Governing Board Compliance with Law.

A. The Board may review or terminate the charter based upon factors that may include:

(1) failure to meet measures of charter school quality which includes adherence to a charter agreement required and monitored by chartering entities; or

(2) charter school deficiencies; or

(3) failure of the charter school to comply with federal or state law or regulation, Board rules or Board directives.

B. If a charter school's charter conflicts with applicable federal or state law or rule, the charter shall be interpreted to require compliance with such law or rule; all other provisions of the school's charter shall remain in full force and effect.

C. A charter school governing board may amend its charter agreement by receiving approval from its chartering entity consistent with Section 53A-1a-508.

D. Chartering entities shall obtain approval by the Board before amending charter agreements specific to (1) changes to mission and purpose; (2) waivers from Board administrative rule; (3) expansions of student enrollment; (4) expansions of grade levels that will put students in different weighted pupil unit grade level categories; and (5) revolving loans.

[E]E. A charter school shall notify the Board and the chartering entity of any and all lawsuits filed against the charter school within 30 days of the filing of the lawsuit.

R277-481-5. Chartering Entity Oversight and Monitoring.

A. Local school board and institutions of higher education chartering entities shall:

(1) visit a charter school at least once during its first year of operation in order to ensure adherence to and implementation of approved charter and to finalize a review process;

(2) visit a charter school as determined in the review process;

(3) provide written reports to a charter school after the visits that set forth strengths, deficiencies, corrective actions, timelines and the reason for charter termination, if applicable; and

(4) audit and investigate claims of fraud or misuse of public assets or funds.

B. Chartering entities shall notify the Board within 20 days of charter school deficiencies that initiate corrective action by chartering entities.

R277-481-6. Charter School Financial Practices and Training.

A. Charter school business administrators shall attend USOE required business meetings for charter schools.

B. Charter school governing board members and school administrators shall be invited to all appropriate Board-sponsored training, meetings, and sessions for traditional school district financial personnel.

C. The Board shall work with other education agencies to encourage their inclusion of charter school representatives at training and professional development sessions.

D. A charter school shall appoint a business administrator consistent with Sections 53A-3-302 and 303. The business administrator shall be responsible for the submission of all financial and statistical information required by the Board.

E. The Board may interrupt disbursements to charter schools for failure to comply with financial and statistical information required by law or Board rules.

F. Charter schools shall comply with the Utah State Procurement Code, Title 63G, Chapter 6.

G. Charter schools are not eligible for necessarily existent small schools funding under Section 53A-17a-109(2) and R277-445.

R277-481-7. Remediating Charter School Financial Deficiencies.

A. Upon receiving credible information of charter school deficiencies, the chartering entity shall immediately direct an independent review or audit through the charter school governing board.

B. The chartering entity or the Board through the chartering entity may direct a charter school governing board or the charter school administration to take reasonable action to protect state or federal funds consistent with Section 53A-1a-510.

C. The chartering entity or the Board may:

(1) allow a charter school governing board to hold a hearing to determine financial responsibility and assist the charter school governing board with the hearing process;

(2) immediately terminate the flow of state funds;

(3) recommend cessation of federal funding to the school;

(4) take immediate or subsequent corrective action with employees who are responsible for charter school deficiencies consistent with Section 53A-1a-509; or

(5) any combination of the foregoing (1), (2), (3) and (4).

D. The recommendation by the chartering entity shall be made within 20 school days of receipt of complaint of deficiency(ies).

E. The chartering entity may exercise flexibility for good cause in making recommendation(s) regarding deficiency(ies).

F. The Board shall consider and affirm or modify the chartering entity's recommendation(s) for remediating a charter school's deficiency(ies) within 60 days of receipt of information from the chartering entity.

G. In addition to remedies provided for in Section 53A-1a-509, the chartering entity may provide for a remediation team to work with the school.

R277-481-8. Appeals Criteria and Procedures.

A. Only an operating charter school, a charter school that has been recommended for approval to the Board, or a charter school applicant that has met State Charter School Board requirements for review by the full State Charter School Board, may appeal chartering entity administrative decisions or recommendations to the Board.

B. The following chartering entity administrative decisions may be appealed to the Board:

(1) termination of a charter;

(2) denial of proposed amendments to charter agreement;

(3) denial or withholding of funds from charter school governing boards; and

(4) denial of a charter.

C. Appeals procedures and timelines

(1) The chartering entity shall, upon taking any of the administrative actions:

(a) provide written notice of denial to the charter school or approved charter school;

(b) provide written notice of appeal rights and timelines to the charter school governing board chair or authorized agent; and

(c) post information about the appeals process on its website and provide training to charter school governing board members and authorized agents regarding the appeals procedure.

(2) A charter school governing board chair or authorized agent (appellant) may submit a written appeal to the State

Superintendent within 14 calendar days of the chartering entity administrative action.

(3) The Superintendent shall, in consultation with Board Leadership, review the written appeal and determine if the appeal addresses an administrative decision by a chartering entity. If the Superintendent and Board Leadership determine that the appeal is appropriate, Board Leadership shall designate three to five Board members and a hearing officer, who is not a Board member, to act as an objective hearing panel.

(4) The hearing officer, in consultation with the Superintendent, shall set a hearing date and provide notice to all parties, including the chartering entity and staff.

(5) The Hearing shall be held no more than 45 days following receipt of the written appeal.

(6) The hearing officer shall establish procedures that provide fairness for all parties, which may include:

(a) a request for parties to provide a written explanation of the appeal and related information and evidence;

(b) a determination of time limits and scope of testimony and witnesses;

(c) a determination for recording the hearing;

(d) preliminary decisions about evidence; and

(e) decisions about representation of parties.

(7) The hearing panel shall make written findings and provide an appeal recommendation to the Board no more than 10 calendar days following the hearing.

(8) The Board shall take action on the hearing report findings at the next regularly scheduled Board meeting.

(9) The recommendation of the chartering entity shall be in place pending the conclusion of the appeals process, unless the Superintendent in his sole discretion, determines that the chartering entity's recommendation or failure to act presents a serious threat to students or an imminent threat to public property or resources.

(10) All parties shall work to schedule and conclude hearings as fairly and expeditiously as possible.

(11) The Board's acceptance or rejection of the hearing report is the final administrative action on the issue.

KEY: charter schools, oversight, monitoring, appeals

Date of Enactment or Last Substantive Amendment: [~~October 8, 2013~~]**2014**

Notice of Continuation: August 2, 2013

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-1a-501.3; 53A-1a-515; 53A-1a-521; 53A-1a-505; 53A-1a-501.5; 53A-1a-510; 53A-1a-509; 53A-1-301; 53A-3-302; 53A-3-303; 53A-17a-109

Education, Administration
R277-527
International Guest Teachers

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 38190

FILED: 12/16/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to add the definition of Local Education Agency (LEA) and change school district and charter school to LEA throughout the rule to make it consistent with other rules.

SUMMARY OF THE RULE OR CHANGE: The definition of LEA is added to the rule and school district and charter school language is changed to LEA throughout the rule.

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 terminology changes throughout the rule are for consistency purposes and do not result in a cost or savings.
- ◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. The terminology changes throughout the rule are for consistency purposes and do not result in a cost or savings.
- ◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule and the amendments apply to public education and do not affect businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The terminology changes throughout the rule do not result in a cost or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The terminology changes throughout the rule do not result in any compliance costs.

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

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

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 01/31/2014

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2014

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

R277. Education, Administration.**R277-527. International Guest Teachers.****R277-527-1. Definitions.**

- A. "Board" means the Utah State Board of Education.
- B. "International guest teacher (guest teacher)" means a foreign educator who has earned a public teaching credential or license in a foreign country and who is currently legally residing in the United States and the state of Utah with the specific purpose to teach in Utah public schools. For this definition to apply, the international guest teacher shall be a resident of a foreign country that has a Memorandum of Understanding with the Board.
- C. "LEA" means 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. "USOE" means the Utah State Office of Education.

R277-527-2. 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-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities, and Section 53A-1-402(1)(a) which directs the Board to establish rules and minimum standards for the qualification and licensing of educators and ancillary personnel who provide direct student services.
- B. The purpose of this rule is to establish procedures for qualified international guest teachers who meet the definition of R277-527-1B to be effectively hired and placed by Utah [school districts/charter schools]LEAs with assistance and direction from the USOE to encourage cultural exchange and foreign language development among Utah public school students.

R277-527-3. Utah State Board of Education/USOE Responsibilities.

- A. The Board shall develop and State Superintendent shall sign a Memorandum of Understanding between the Board and the appropriate government agency of the country of origin of guest teachers, as identified by the Board.
- B. The USOE shall work with guest teachers and their resident countries and the United States Department of State, if necessary, to secure appropriate visas or travel and work documents for guest teachers to legally teach in the public schools in Utah.
- C. The USOE shall verify that guest teachers have appropriate licenses or credentials from the guest teachers' resident countries that satisfy the requirements of Utah law and any applicable federal requirements.
- D. The USOE shall work with interested [school districts and charter schools]LEAs to make schools aware of guest teachers with specific credentials and language skills and to inform guest teachers about openings in specific grade levels and curriculum areas in various geographic locations in Utah.
- E. The USOE shall require and review a guest teacher's criminal background checks required under Section 53A-3-410 and

a criminal background clearance from the guest teacher's resident country or both prior to authorizing the guest teacher to work in Utah.

F. The Board may determine that it will seek guest teachers only from foreign countries that provide transportation or per diem expenses or both for USOE representatives to screen and interview potential guest teachers.

G. Following review and approval of a guest teacher's credentials and background, a guest teacher may receive an International Guest Teacher license equivalent to a Level 1 license.

R277-527-4. International Guest Teacher Requirements.

A. Guest teachers shall have a United States issued social security number prior to an ~~[school district/charter school]~~ LEA processing any payment to the guest teacher.

B. Guest teachers shall cooperate with the USOE in required submission of information including criminal background check information, copies of credentials, copies of transcripts in the language and format designated by the USOE.

C. Guest teachers shall assume all responsibility for living and transportation expenses while participating in the International Guest Teachers Program.

D. Guest teachers shall be responsible for compliance with all state of Utah/Board and employing ~~[school district]~~ LEA professional and ethical public school educator requirements.

E. Guest teachers who violate district employment or state or district professional practices may have their employment contract terminated consistent with at will employment provisions; the conduct of individual guest teachers may influence continued participation in the International Guest Teacher Program between the Board and a guest teacher's resident country.

R277-527-5. Other Provisions.

A. The opportunity for teachers from outside the United States to be licensed to teach in Utah schools with assistance provided by the USOE under this rule shall be available only to individuals from countries with which the Board has signed a Memorandum of Understanding.

B. A business or third party may not facilitate a Memorandum of Understanding between a foreign country and the Board, but may facilitate the hiring process at the request of the ~~[school district/charter school]~~ LEA.

C. Internationally credentialed educators may seek appropriate licensing to teach in Utah schools. Those educators from countries that do not have Memoranda of Understanding with the Board shall be licensed under R277-502.

D. It is the responsibility of the prospective guest teacher or the guest teacher's home country to ensure that the guest teacher has the appropriate visa or authorization or both to live and teach in the United States for the agreed upon time period and teaching assignment.

KEY: international guest teachers

Date of Enactment or Last Substantive Amendment: ~~[January 7, 2009]~~ 2014

Notice of Continuation: December 16, 2013

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

**Environmental Quality, Air Quality
R307-302
Solid Fuel Burning Devices in Box
Elder, Cache, Davis, Salt Lake, Tooele,
Utah and Weber Counties**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 38166
FILED: 12/09/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: There is a conflict in definitions for the term, "residential solid fuel burning device" used in Section R307-101-2 and Rule R307-302. The term, "residential solid fuel burning device" is defined in Section R307-101-2 and used throughout the Air Quality Rules. The term, "solid fuel burning device" is defined in Rule R307-302, but throughout that rule, is currently used in conjunction with the word "residential," which creates a conflict with the definition contained in Section R307-101-2.

SUMMARY OF THE RULE OR CHANGE: Throughout Rule R307-302, the word, "residential" is removed when it is used with "solid fuel burning device". The applicability section of the rule is further expanded to clarify that the rule applies in residential indoor and outdoor settings.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-101 and Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** Because this amendment clarifies how a term within the rule is to be defined and clarifies the rule's applicability, there are no anticipated costs or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** Because this amendment clarifies how a term within the rule is to be defined and clarifies the rule's applicability, there are no anticipated costs or savings to local government.
- ◆ **SMALL BUSINESSES:** Because this amendment clarifies how a term within the rule is to be defined and clarifies the rule's applicability, there are no anticipated costs or savings to small business.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because this amendment clarifies how a term within the rule is to be defined and clarifies the rule's applicability, there are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this amendment clarifies how a term within the rule is to be defined and clarifies the rule's applicability, there are no new compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes will not result in a fiscal impact on businesses as the change clarifies how a term within the rule is to be defined and clarifies that the rule's applicability.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 AIR QUALITY
 FOURTH FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2014

THIS RULE MAY BECOME EFFECTIVE ON: 03/05/2014

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-302. Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber Counties.

R307-302-1. Purpose and Definitions.

(1) R307-302 establishes emission standards for ~~residential~~ fireplaces and solid fuel burning devices used in residential and associated outbuildings.

(2) The following additional definitions apply to R307-302:
 "Sole source of heat" means the ~~residential~~ solid fuel burning device is the only available source of heat for the entire residence, except for small portable heaters.

"Solid fuel burning device" means any device used for burning wood, coal, or any other nongaseous and non-liquid fuel, both indoors and outdoors, ~~including, but not limited to, wood stoves,~~ but excluding outdoor wood boilers, which are regulated under R307-208.

R307-302-2. Applicability.

(1) R307-302-3 and R307-302-6 shall apply in PM10 and PM2.5 nonattainment and maintenance areas as defined in 40 CFR 81.345 (July 1, 2011) and geographically described as all regions of Salt Lake and Davis counties; all portions of the Cache Valley; all regions in Weber and Utah counties west of the Wasatch mountain range; in Box Elder County, from the Wasatch mountain range west to the Promontory mountain range and south of Portage; and in Tooele County, from the northernmost part of the Oquirrh mountain range to the northern most part of the Stansbury mountain range and north of Route 199.

(2) R307-302-4 shall apply only within the city limits of Provo in Utah County.

(3) R307-302-5 shall apply in all portions of Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber counties.

R307-302-3. No-Burn Periods for Fine Particulate.

(1) By June 1, 2013, sole sources of residential heating using solid fuel burning devices must be registered with the director in order to be exempt during mandatory no-burn periods.

(2) When the ambient concentration of PM10 measured by the monitors in Salt Lake, Davis, Weber, or Utah counties reaches the level of 120 micrograms per cubic meter and the forecasted weather for the specific area includes a temperature inversion which is predicted to continue for at least 24 hours, the director will issue a public announcement and will distribute such announcement to the local media notifying the public that a mandatory no-burn period for ~~residential~~ solid fuel burning devices and fireplaces is in effect. The mandatory no-burn periods will only apply to those areas or counties impacting the real-time monitoring site registering the 120 micrograms per cubic meter concentration. Residents of the affected areas shall not use ~~residential~~ solid fuel burning devices or fireplaces except those that are the sole source of heat for the entire residence and registered with the director.

(3) PM10 Contingency Plan. If the PM10 Contingency Plan described in Section IX, Part A, of the State Implementation Plan has been implemented, the trigger level for no-burn periods as specified in R307-302-3(2) will be 110 micrograms per cubic meter for that area where the PM10 Contingency Plan has been implemented.

(4) When the ambient concentration of PM2.5 measured by monitors in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah or Weber counties are forecasted to reach or exceed 25 micrograms per cubic meter, the director will issue a public announcement to provide broad notification that a mandatory no-burn period for ~~residential~~ solid fuel burning devices and fireplaces is in effect. The mandatory no-burn periods will only apply to those counties identified by the director. Residents within the geographical boundaries described in R307-302-2(1) shall not use ~~residential~~ solid fuel burning devices or fireplaces except those that are the sole source of heat for the entire residence and registered with the director.

(5) PM2.5 Contingency Plan. If the PM2.5 contingency plan of the State Implementation Plan has been implemented, the trigger level for no-burn periods as specified in R307-302-3(4) shall be 15 micrograms per cubic meter for the area where the PM2.5 contingency plan has been implemented.

R307-302-4. No-Burn Periods for Carbon Monoxide.

(1) Beginning on November 1 and through March 1, the director will issue a public announcement and will distribute such announcement to the local media notifying the public that a mandatory no-burn period for ~~residential~~ solid fuel burning devices and fireplaces is in effect when the running eight-hour average carbon monoxide concentration as monitored by the state at 4:00 PM reaches a value of 6.0 ppm or more.

(2) In addition to the conditions contained in R307-302-4(1), the director may use meteorological conditions to initiate a no-burn period. These conditions are:

(a) A national weather service forecasted clearing index value of 250 or less;

(b) Forecasted wind speeds of three miles per hour or less;

(c) Passage of a vigorous cold front through the Wasatch Front; or

(d) Arrival of a strong high pressure system into the area.

(3) During the no-burn periods specified in R307-302-4(1) and (2), residents of Provo City shall not use ~~residential~~ solid fuel

burning devices or fireplaces except those that are the sole source of heat for the entire residence and are registered with the director or the local health district office.

R307-302-5. Opacity for Residential Heating.

Except during no-burn periods as required by R307-302-3 and 4, visible emissions from [~~residential~~]-solid fuel burning devices and fireplaces shall be limited to a shade or density no darker than 20% opacity as measured by EPA Method 9, except for the following:

- (1) An initial fifteen minute start-up period, and
- (2) A period of fifteen minutes in any three-hour period in which emissions may exceed the 20% opacity limitation for refueling.

R307-302-6. Prohibition.

(1) Beginning September 1, 2013, no person shall sell, offer for sale, supply, install, or transfer a wood burning stove that is not EPA Phase 2 certified or a fireplace that is not EPA qualified.

(2) Ownership of a non EPA Phase 2 certified stove within a residential dwelling installed prior to the rule effective date may be transferred as part of a real estate transaction, so long as the unit remains intact within the real property of sale.

KEY: air pollution, fireplaces, stoves, [~~residential~~]-solid fuel burning

Date of Enactment or Last Substantive Amendment: [~~January 1, 2013~~]**2014**

Notice of Continuation: June 2, 2010

Authorizing, and Implemented or Interpreted Law: 19-2-101; 19-2-104

Health, Disease Control and
Prevention, Health Promotion
R384-200
Program Eligibility, Benefits, and
Administration

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 38178

FILED: 12/13/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule is to define what services the Utah Cancer Control Program will and will not reimburse contracted providers for, and to define program eligibility.

SUMMARY OF THE RULE OR CHANGE: This rule defines the following for the Utah Cancer Control Program: the benefits provided by the program, reimbursement for services provided, and eligibility for the program.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-5-2

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There are no anticipated costs or savings because the rule simply outlines administrative details of the Utah Cancer Control Program: benefits offered, eligibility requirements, and reimbursement requirements.

♦ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings because the rule simply outlines administrative details of the Utah Cancer Control Program: benefits offered, eligibility requirements, and reimbursement requirements.

♦ **SMALL BUSINESSES:** There are no anticipated costs or savings because the rule simply outlines administrative details of the Utah Cancer Control Program: benefits offered, eligibility requirements, and reimbursement requirements.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings because the rule simply outlines administrative details of the Utah Cancer Control Program: benefits offered, eligibility requirements, and reimbursement requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated costs or savings for individuals, as those eligible for services are not now required to pay any costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No impact on business.

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

HEALTH
DISEASE CONTROL AND PREVENTION,
HEALTH PROMOTION
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Lynne Nilson by phone at 801-538-7049, or by Internet E-mail at lnilson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2014

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

R384. Health, Disease Control and Prevention; Health Promotion.

R384-200. Cancer Control Program.

R384-200-1. Authority and Purpose.

This rule governs program eligibility, benefits, and administration by the Department for the Utah Cancer Control Program, including breast and cervical cancer, cardiovascular disease risk factor, and colorectal cancer screening services; Breast

and Cervical Cancer Control Program; WISEWOMAN (BeWise) Program; and Colorectal Cancer Control Program. It is authorized by Sections 26-5-2 and 26-1-5.

R384-200-2. Definitions.

The following definitions apply to this rule:

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

(2) "Client" means an individual who meets the eligibility criteria and is enrolled in the Utah Cancer Control Program pursuant to the provisions of this rule.

R384-200-3. Nature of Program and Benefits.

(1) The Utah Cancer Control Program provides reimbursement to providers for services rendered to individuals who meet the eligibility requirements. The Utah Cancer Control Program provides limited cancer screening and cardiovascular health services as described in this rule. The Department provides reimbursement coverage under the program only for services for each program:

(a) as provided by Public Law 101-354, 42 U.S.C. Section 300k, which established the National Breast and Cervical Cancer Early Detection Program (NBCCEDP) and by ongoing CDC program guidance;

(2) Within available funding, the Department provides the following services under the Utah Cancer Control Program:

(a) The Breast and Cervical Cancer Control Program pays for the following services related to breast cancer:

(i) Screening: Clinical Breast Exam and screening mammography.

(ii) Diagnostic: diagnostic unilateral and bilateral mammograms; ultrasound; stereotactic localization for breast biopsy, each lesion; radiological supervision and interpretation; preoperative placement of needle localization wire, breast radiological supervision, and interpretation; radiological examination and surgical specimen; ultrasonic guidance for needle biopsy, radiological supervision, and interpretation; fine needle aspiration with or without imaging guidance; aspiration of cyst of breast; biopsy of breast; incisional biopsy of breast; percutaneous, needle core, using imaging guidance; percutaneous, automated vacuum assisted or rotating biopsy device, using imaging guidance; excision of cyst, fibroadenoma, or other benign or malignant tumor aberrant breast tissue, duct lesion or nipple lesion; excision of breast lesion identified by pre-operative placement of radiological marker-single lesion; pre-operative placement of needle localization wire; and image guided placement metallic localization clip, percutaneous, during breast biopsy.

(iii) Surgical: surgical service, such as a breast biopsy, as an outpatient procedure and anesthesia.

(iv) Pathology: immediate cytohistologic study to determine adequacy of specimen of fine needle aspiration (FNA), interpretation and report of FNA, breast biopsy interpretation, and excision of breast lesion.

(b) The Breast and Cervical Cancer Control Program pays for the following services related to cervical cancer:

(i) Screening: clinical Pap test and HPV Test.

(ii) Diagnostic: colposcopy with or without biopsy; colposcopy of the cervix with loop electrode biopsy of the cervix; colposcopy with loop electrode conization of the cervix; biopsy, single or multiple, or local excision of lesion, with or without

fulguration; excision, endocervical curettage; conization of cervix; Loop Electrode Excision; and endometrial sampling with or without biopsy, without cervical dilation.

(iii) Pathology: cytopathology; cytopathology, cervical or vaginal, requiring interpretation by physician; colposcopy biopsy interpretation; and surgical pathology, first tissue block, with frozen section, single specimen.

(iv) Office Visits: new patient office visit and established patient office visit for both breast and cervical clients.

(v) The program does not pay for any services once a woman is diagnosed with breast cancer or cervical cancer, including cervical precancerous lesions.

(c) The WISEWOMAN Program, known as BeWise, pays for the following services:

(i) A basic metabolic profile; comprehensive metabolic panel; lipid panel; total cholesterol; quantitative, blood, and reagent strip glucose tests; hemoglobin, glycated (HbA1c), which is used in lieu of other glucose testing for those with previous diagnosis of diabetes; HDL cholesterol test; office visit for new patient--problem focus 10, 20, or 30 minutes face-to-face; office visit for established patient, 5, 10, or 15 minutes face-to-face; routine venipuncture; preventive medicine counseling or risk factor reduction intervention(s) provided to an individual 15, 30, 45, or 60 minutes; and preventive medicine counseling or risk factor reduction intervention(s) provided to individuals in a group setting, 30 or 60 minutes.

(ii) The program does not pay for treatment services such as medication, medical nutrition therapy, and other highly specialized counseling such as diabetes-education programs.

(d) The Colorectal Cancer Control Program pays for the following:

(i) Screening Tests and Procedures: colonoscopy every ten years, biopsy/polypectomy during colonoscopy, moderate sedation for colonoscopy, the use of propofol only if prior approval is obtained, and office visits related to the tests listed above.

(ii) Diagnostic Follow-up Services: office visits related to screening and diagnostic tests, total colon exam with colonoscopy, biopsy/polypectomy during colonoscopy, moderate sedation for colonoscopy, the use of propofol only if prior approval is obtained, and pathology fees.

(iii) Surveillance: surveillance colonoscopies will be reimbursed at appropriate intervals as determined by the recommending clinician, the program, or the program's Medical Advisory Board (MAB).

(iv) The program does not pay for CT Colonography, or virtual colonoscopy, as a primary screening test; Computed Tomography Scans, known as CTs or CAT scans, requested for staging or other purposes; surgery or surgical staging, unless specifically required and approved by the program's MAB to provide a histological diagnosis of cancer; any treatment related to the diagnosis of colorectal cancer; any care or services for complications that result from screening or diagnostic tests provided by the program; evaluation of symptoms for clients who present for CRC screening but are found to have gastrointestinal symptoms; diagnostic services for clients who had an initial positive screening test performed outside of the program; management of medical conditions, including Inflammatory Bowel Disease using surveillance colonoscopies and medical therapy for management; genetic testing for clients who present with a history suggestive of a

hereditary non-polyposis colorectal cancer (HNPCC) or familial adenomatous polyposis (FAP); and the use of propofol as anesthesia during endoscopy, unless specifically required and approved by the program's MAB in cases where the client cannot be sedated with standard moderate sedation.

(3) The Department may adjust the services available to meet current needs and fluctuations in available funding.

(4) The Utah Cancer Control Program is not health insurance. A relationship with the Department as the insurer and the client as the insured is not created under this program.

R384-200-4. Providers.

The Department reimburses only providers and Local Health Departments who contract with the Department to provide services under the program.

R384-200-5. Reimbursement.

(1) The Department shall reimburse providers with whom it contracts to provide services as limited in manuals that form part of its Provider Agreements or contracts with providers.

(2) The Department shall reimburse providers according to the fee schedule or schedules that are made part of its agreements or contracts with providers.

(3) Payment for services by the Department and client co-payment, if any, constitutes full payment for services. A provider may not bill or collect any additional monies for services rendered pursuant to an agreement or contract to provide services under the Utah Cancer Control Program.

(4) The Department does not pay for services under the Utah Cancer Control Program for which an individual is eligible to receive under Medicaid or any other primary payer source.

R384-200-6. Utah Cancer Control Program Eligibility.

(1) To be eligible to receive services from the Breast and Cervical Cancer Control Program, an individual:

(a) must be aged 50 to 64 years old;

(b) must have income at or below 250% of Federal Poverty Level;

(c) must have no insurance, inadequate insurance coverage that does not pay for these services, or cannot afford the insurance co-pay.

(d) must be a current Utah resident.

(2) To be eligible to receive services from the WISEWOMAN (BeWise) Program, an individual:

(a) must be enrolled and remain eligible to participate in the breast and cervical screening program

(b) must have income at or below 250% of the Federal Poverty Level

(c) must have no insurance, inadequate insurance coverage that does not pay for these services, or cannot afford the insurance co-pay.

(d) must be unable to pay the premium to enroll in Medicare Part B if eligible for Medicare. Medicare part B requires the participant to pay a monthly premium of \$99.00 and a late enrollment fee of +10% for each full 12-month period the participant could have had Part B, but didn't sign up for it.

(3) To be eligible to receive services from the Colorectal Cancer Control Program, an individual:

(a) must be aged 50 to 64 years old;

(b) must have income at or below 200% of the Federal Poverty Level;

(c) must have no health insurance coverage;

(d) must be a documented resident of the United States;

(e) must be a current Utah resident;

(f) must be at average risk or have a family history of colorectal cancer;

(g) must have no symptoms of colorectal cancer or other bowel condition;

(h) must never have had a colonoscopy.

KEY: breast and cervical cancer screening, colorectal cancer screening, Utah Cancer Control Program

Date of Enactment or Last Substantive Amendment: 2014

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

Health, Disease Control and Prevention, Environmental Services **R392-200-4** Site Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38177

FILED: 12/13/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is being revised to clarify that a building site that has been remediated to eliminate any public health threat may be used for a building site.

SUMMARY OF THE RULE OR CHANGE: Subsection R392-200(4)(2) will be deleted, which will then allow building on a site that has been remediated to eliminate any public health threat. Subsection R392-200(4)(3), which will remain in effect, contains language that will continue to prevent building on sites where health or safety hazards exist.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-15-2

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Utah Department of Health (UDOH) performed an analysis and has determined that by eliminating the proposed section, it would not have an effect on the building cost of a school, but would allow more options for districts as to location of schools. Therefore, UDOH has determined that the proposed modification has no cost or savings effect to state budgets.

- ◆ LOCAL GOVERNMENTS: UDOH performed an analysis and has determined that by eliminating the proposed section, it would not have an effect on the building cost of a school, but would allow more options for districts as to location of schools. Therefore, UDOH has determined that the proposed modification has no cost or savings effect to local government budgets.
- ◆ SMALL BUSINESSES: The proposed modification has no cost or savings effect to small businesses. UDOH performed an analysis and has determined that by eliminating the proposed section, it would not have an effect on the building cost of a school, but would allow more options for location.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: UDOH performed an analysis and has determined that by eliminating the proposed section, it would not have an effect on the building cost of a school, but would allow more options for districts as to location of schools. Therefore, UDOH has determined that the proposed modification has no cost or savings effect to those in this class.

COMPLIANCE COSTS FOR AFFECTED PERSONS: UDOH performed an analysis and has determined that by eliminating the proposed section, it would not have an effect on the building cost of a school, but would allow more options for districts. Therefore, UDOH has determined that the proposed modification has no cost or savings effect to individuals, partnerships, corporations, associations, or others as listed above.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no effect on business as this will allow re-use of land when appropriate remediation has been done.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HEALTH
 DISEASE CONTROL AND PREVENTION,
 ENVIRONMENTAL SERVICES
 CANNON HEALTH BLDG
 288 N 1460 W
 SALT LAKE CITY, UT 84116-3231
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Ronald Marsden by phone at 801-538-6191, by FAX at 801-538-6564, or by Internet E-mail at rmarsden@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2014

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

R392. Health, Disease Control and Prevention, Environmental Services.

R392-200. Design, Construction, Operation, Sanitation, and Safety of Schools.

R392-200-4. Site Standards.

(1) Prior to developing plans and specifications for a new school, or the expansion of an existing school, school districts and charter schools shall coordinate with local health departments regarding environmental health and safety issues to avoid unreasonable risks to the health and safety of students, school staff, and faculty. [

~~(2) The school site shall not be located in an area where there is a history or high possibility of flooding, high ground water, snow or earth slides, or an area that was a repository for hazardous substances.]~~

([3]2) The school site shall be located to minimize the negative influence of railroads, freeways, highways, heavy traffic roads, industrial areas, airports and aircraft flight patterns, fugitive dust, odors, or other areas where auditory problems, malodorous conditions, or safety and health hazards exist.

KEY: public health, schools

Date of Enactment or Last Substantive Amendment: ~~[August 26, 2013]~~2014

Notice of Continuation: January 20, 2012

Authorizing, and Implemented or Interpreted Law: 26-15-2

**Health, Disease Control and
 Prevention, Environmental Services
 R392-303
 Public Geothermal Pools and Bathing
 Places**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38176

FILED: 12/12/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule scales requirements for small pool applications and should have a positive impact on those businesses.

SUMMARY OF THE RULE OR CHANGE: The proposed rule adds new definitions for a "soaking pool" and "soaking tub" which are designed only for soaking, not swimming; relaxes the requirement for "no diving" signs and underwater lighting at soaking tubs; relaxes full time surveillance requirement for life guard service for soaking pools not used for swimming, soaking tubs, and some scuba and snorkeling pools, but requires two or more people to be present in the tub or pool; requires if lifeguard service is not available at a scuba or

snorkeling pool, the patron must sign a form indicating knowledge that lifeguard service will not be provided and that the person must not swim alone; relaxes decking requirements for soaking pools and tubs; relaxes requirements for vacuum cleaning system if a pool is cleaned regularly while empty; allows the use of disinfectant for a set period of time as an alternative to closing a pool while the facility achieves bacteriological compliance; reduces the number of warning signs required at a facility.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-15-2

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There will be no anticipated cost or savings to the state budget as issues regarding this rule will be handled using existing funds.
- ◆ LOCAL GOVERNMENTS: No anticipated cost or savings to local governments as rule enforcement will be handled using existing funds.
- ◆ SMALL BUSINESSES: There are no anticipated increased costs, however, there are anticipated savings to the geothermal facilities due to the reduction of requirements while still providing public health and safety. The Department is unable to estimate these savings accurately.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated increased costs, however, there are anticipated savings to the geothermal facilities due to the reduction of requirements while still providing public health and safety. The Department is unable to estimate these savings accurately.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated increased costs to single individuals, partnerships, corporation, associations, governmental entities, or public or private organizations as requirements are being relaxed for specific pool types.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule scales requirements for small pool applications and should have a positive impact on those businesses.

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

HEALTH
DISEASE CONTROL AND PREVENTION,
ENVIRONMENTAL SERVICES
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Ronald Marsden by phone at 801-538-6191, by FAX at 801-538-6564, or by Internet E-mail at rmarsden@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2014

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

R392. Health, Disease Control and Prevention, Environmental Services.

R392-303. Public Geothermal Pools and Bathing Places.

R392-303-1. Authority and Purpose.

This rule is authorized under Section 26-15-2. It establishes minimum standards for the design, construction, operation and maintenance of public geothermal pools and public geothermal bathing places.

R392-303-2. Definitions.

The following definitions apply in this rule.

- (1) "Bather load" means the number of persons allowed by the operator to use a geothermal pool or geothermal bathing place at any one time or specified period of time.
- (2) "Department" means the Utah Department of Health.
- (3) "Executive Director" means the Executive Director of the Utah Department of Health, or his designated representative.
- (4) "Flow-through" means water that is fed by a continuous supply into a pool or bathing place that causes an equal rate of flow to discharge from the pool or bathing place to waste.
- (5) "Geothermal bathing place" means a natural bathing place or semi-artificial bathing place with an impoundment of geothermal water.
- (6) "Geothermal pool" means a man-made basin, chamber, receptacle, tank, or tub which is filled with geothermal water or a mixture of geothermal and non-geothermal water that creates an artificial body of water.
- (7) "Geothermal water" means ground water that is heated in the earth by the earth's interior.
- (8) "Living unit" means one or more rooms or spaces that are, or can be, occupied by an individual, group of individuals, or a family, temporarily or permanently for residential or overnight lodging purposes. Living units include motel and hotel rooms, condominium units, travel trailers, recreational vehicles, mobile homes, single family homes, and individual units in a multiple unit housing complex.
- (9) "Local Health Officer" means the health officer of the local health department having jurisdiction, or his designated representative.
- (10) "Natural bathing place" means a lake, pond, river, stream, swimming hole, or hot springs which has not been modified by man.
- (11) "Semi-artificial bathing place" means a natural bathing place that has been modified by man.
- (12) "Soaking pool" means a geothermal pool or geothermal bathing place that is 4 feet, 122 centimeters, or less deep and is designed exclusively for sitting or reclining.

(13) "Soaking tub" means a geothermal pool or geothermal bathing place that has a depth of 2 feet, 61 centimeters, or less and a volume of 300 gallons, 1,136 liters, or less.

R392-303-3. General Requirements.

(1) This rule applies to geothermal pools and geothermal bathing places that:

(a) are partially or completely filled with geothermal water that has a source temperature of at least 70 degrees Fahrenheit, 21.1 degrees Celsius; and

(b) are offered to the public for bathing or recreation.

(2) This rule does not apply to an unsupervised geothermal bathing place that the owner explicitly or tacitly allows anyone at any time to use without a fee.

(3) This rule does not apply to a geothermal pool or geothermal bathing place that is used only by a single household or only by a single group of multiple living units of four or fewer households.

(4) Except as otherwise stated in this rule, geothermal pools and geothermal bathing places, are exempt from the requirements of R392-302.

(5) This rule does not require an owner or operator to modify any portion of an existing geothermal pool facility or existing geothermal bathing place. If an owner or operator modifies any system or part of a geothermal pool or geothermal bathing place, the modified system or part must meet the requirements of this rule. However, if the Executive Director or the Local Health Officer determines that any facility is dangerous, unsafe, unsanitary, or a nuisance or menace to life, health or property, the Executive Director or the Local Health Officer may order modification consistent with the requirements of this rule.

R392-303-4. Drinking Water Supply.

(1) The owner of a geothermal pool or geothermal bathing place shall assure that all plumbing fixtures including drinking fountains, lavatories and showers at the public geothermal pool or geothermal bathing place facility are connected to a drinking water system that meets the requirements for drinking water established by the Utah Department of Environmental Quality.

(2) The owner of a geothermal pool or geothermal bathing place shall protect the connected drinking water system against back flow of contamination or back flow of water from the geothermal water source.

R392-303-5. Geothermal Source Water Quality.

(1)(a) The owner of a geothermal pool or geothermal bathing place shall install a tap or sampling point that provides the operator with the ability to sample the geothermal source water before it enters the geothermal pool or geothermal bathing place impoundment.

(b) If it is impractical to directly sample the geothermal source water, the operator may sample water directly from the pool or impoundment. However, at least sixteen hours must have passed since any person has been in the pool and the sample shall be taken as close to the geothermal source water inlet as practical.

(2) The operator of a geothermal pool or geothermal bathing place shall collect samples of the geothermal source water and of any other water source used to fill the pool that is not

approved for drinking water by Utah Division of Drinking Water. The operator shall submit the samples for analysis to a laboratory certified under R444-14. The operator shall have the analysis performed initially and every five years thereafter to determine the levels of constituents listed in Table 1. If a geothermal pool or geothermal bathing place is in existence prior to the adoption of this rule, the owner of the facility shall submit to the local health department the results of initial source water tests within six months after the adoption of the rule. The permit applicant of a newly permitted public geothermal pool or geothermal bathing place shall submit the results of the initial source water analyses to the local health department with his application for a permit. The operator shall submit five-year samples to the local health department within six months prior to the end of the five year period.

(3) If the geothermal source water analysis required in R392-303-5(2) reports that any constituents fails any of the standards in Table 1, the owner shall do one of the following:

(a) not use the source water;

(b) implement an ongoing treatment process approved by the Department to provide source water that meets the requirements in Table 1; or

(c) at a minimum, post a caution sign outlined in R392-303-22, to notify swimmers that the water does not meet the EPA recommended drinking water standard and they swim at their own risk. The caution sign shall include the name of the constituent that does not meet the EPA standard and that there may be a health risk associated with bathing in water that contains high levels of the constituent. Based on research funded by or guidelines issued by a competent authority, including the Centers for Disease Control and Prevention or the Environmental Protection Agency, the Local Health Officer may require the operator to post the maximum recommended bathing period or to post other recommended restrictions.

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R392-303-6. General Safety Requirements.

(1) Geothermal pools shall meet the requirements of R392-302-11, except a soaking tub shall neither be required to have a "NO DIVING" sign, a "NO HEAD-FIRST ENTRY" sign, nor a no diving icon.

(2) Head-first entry is not permitted at a geothermal bathing place except where the operator has demonstrated to the local health officer that the water depth and underwater obstructions at the entire geothermal bathing place pose no greater risk than at a diving-permitted section of a swimming pool as allowed in R392-302-11. Diving with a self-contained underwater breathing apparatus (SCUBA) is allowed at geothermal bathing places. Where head-first entry is not permitted, the operator shall place a sign that states "NO HEAD-FIRST ENTRY" in accordance with R392-303-22, 23 and 24.

(3) Geothermal pools and geothermal bathing places shall meet ~~the following sections of R392-302:~~ R392-302-14 (fencing), R392-302-22 (safety requirements and lifesaving equipment), R392-302-23 (lighting, ventilation and electrical requirements), and R392-302-30 (supervision of bathers) with the following exceptions:

(a) ~~[R392-302-14 Fencing, however t]~~ The local health officer may grant exceptions to the height requirements in R392-

302-14 for fences or barriers in consideration of natural features for geothermal bathing places;

(b) ~~[R392-302-22 Safety Requirements and Lifesaving Equipment, except that a]A geothermal bathing place under 5 feet, 1.52 meters, deep is only required to meet R392-302-22(3)]exempt from R392-302-22 except for subsection (3);~~

(c) ~~[R392-302-23 Lighting, Ventilation and Electrical Requirements]A soaking tub is exempt from the underwater lighting requirements of R392-302-32 when used at night but shall have at least 5 horizontal foot candles of light per square foot, 929 square centimeters, over the surface of the tub from overhead luminaires; ~~and]~~~~

(d) ~~[R392-302-30 Supervision of Bathers subsections 1 through 7]Soaking pools and soaking tubs are exempt from the requirements of R392-302-30 (4) through (6), but the lifeguard may not allow any person to use a soaking pool or soaking tub unless there is another person in attendance capable of alerting the lifeguard if the lifeguard's help is needed and the lifeguard must always be on the premises and no more than a minute away if needed at any time; and~~

(e) Geothermal bathing places used only for SCUBA diving or snorkeling are exempt from the requirements of R392-302-30 (4) through (6), but the lifeguard may not allow any person to SCUBA dive or snorkel in the bathing place unless there is another person in attendance capable of alerting the lifeguard if the lifeguard's help is needed, the lifeguard must always be on the premises and no more than a minute away if needed at any time, and the owner of geothermal bathing places shall require patrons to sign a form that informs the patron that constant lifeguard surveillance will not be provided and that the patron must be accompanied by another diver at all times.

R392-303-7. Bather Facilities.

Geothermal pools and geothermal bathing places shall meet the following sections of R392-302:

- (1) R392-302-24 Dressing Rooms
- (2) R392-302-25 Toilets and Showers
- (3) R392-302-26 Visitors and Spectator Areas

R392-303-8. Construction Materials.

(1) Geothermal pools shall meet the requirements of R392-302-6. However, a geothermal pool with a volume less than or equal to 3,000 gallons, 11,355 liters, and a maximum depth less than 4 feet, 1.22 meters, is exempt from the color requirement of R392-302-6(5).

(2) The owner or operator of a geothermal bathing place shall notify bathers of and protect them from safety hazards by methods such as altering surfaces or structures, barricading or roping off problem areas, and posting warning signs.

R392-303-9. Bather Load.

(1) Geothermal pools and geothermal bathing places shall meet the bather load requirements in R392-302-7.

(2) If a geothermal pool or geothermal bathing place is unable to meet bacteriological water quality by other means, the owner or operator shall reduce the allowed bather load in order to meet the requirements R392-303-19.

R392-303-10. Design Detail and Structural Stability.

(1) With the exception of the provisions listed in R392-302-8(3) and R392-302-8(5), geothermal pools shall meet the provisions of R392-302-8.

(2) The owner shall submit plans for a new geothermal pool or a geothermal bathing place or the renovation of the remodeling of a geothermal pool or a geothermal bathing place to the local health department for approval based upon compliance to this rule. Renovation or remodeling includes the replacement or modification of equipment that may affect the ability of a geothermal pool or a geothermal bathing place to meet the safety and water quality standards of this rule.

(3) Geothermal bathing places used only for SCUBA diving or snorkeling are exempt from requirements of R392-303-11 through 15 and the clarity requirement in R392-303-19 if each patron signs a document acknowledging that the patron has read the list of inherent physical and environmental dangers that the geothermal bathing place has not complied with in R392-303-11 through 15 and 19, and to which the patron is exposed upon entering or using the geothermal bathing place.

R392-303-11. Depths and Floor Slopes.

(1) Geothermal pools shall meet the requirements of R392-302-9.

(2) The owner of a geothermal bathing place shall protect bathers from uneven bottoms, sudden changes in depth, and other bottom anomalies by altering the pool bottom, posting signs about the dangers, providing barriers around hazards, or roping off areas.

R392-303-12. Walls.

(1) Geothermal pools shall meet the requirements of R392-302-10.

(2) The owner of a geothermal bathing place shall protect bathers from uneven walls, submerged projections, or submerged ledges by methods such as posting signs notifying patrons of the dangers, providing barriers around hazards, or roping off areas.

R392-303-13. Ladders, Recessed Steps, and Stairs.

(1) Geothermal pools shall meet the requirements of R392-302-12.

(2) The owner of a geothermal bathing place shall provide a means of entrance into and exit from the water that include handholds and steps where needed to provide for bather safety.

R392-303-14. Decks and Walkways.

(1) Geothermal pools shall meet the requirements of R392-302-13 except soaking pools and soaking tubs shall meet the decking requirements of a spa pool in R392-302-32 (2) (f), the pool curb of a soaking tub may be any width, and the rim of a soaking tub may be up to 24 inches, 61 centimeters, above the deck level.

(2) The owner of a geothermal bathing place shall provide safe walkways leading to the bathing place that are free of trip hazards and provide handholds where there are ramps or steps.

R392-303-15. Depth Markings and Safety Ropes.

(1) Geothermal pools shall meet the requirements of R392-302-15.

(2) The owner of a geothermal bathing place shall protect bathers from unexpected deep water by means such as posting pool depth signs, providing barriers around deep areas, or roping off areas.

R392-303-16. Circulation Systems.

(1) Geothermal pools that transport source, pool, or discharge water through pipes shall meet the requirements of R392-302-16 for piping, pipe labeling, velocity in pipes, adequate space in equipment areas, valves, and air induction systems. Geothermal pools shall meet the requirements of R392-302-16 for normal water level and vacuum cleaning systems; except a vacuum cleaning system is not required if an operator keeps the pool clean by draining the pool and cleaning it while it is empty.

(2) The owner or operator of a geothermal pool or geothermal bathing place shall maintain flow-through 24 hours a day during the operating season, except for periods of maintenance. If the pool is drained and cleaned each day prior to use, flow-through is only required during the period that the geothermal pool is in use.

(3) A geothermal pool or geothermal bathing place with a volume greater than 3,000 gallons, 11,355 liters, shall have a flow-through rate greater than or equal to one-fourth the pool volume every hour. A geothermal pool or geothermal bathing place with a volume less than or equal to 3,000 gallons, 11,355 liters, shall have a flow-through rate greater than or equal to the pool volume every 30 minutes.

(a) If the results of any three of the last five E. Coli or fecal coliform samples taken from the pool exceed 63 per 50 milliliters, the owner or operator shall either increase the rate of flow-through, reduce bather load as provided in R392-303-9(2), or both increase the flow rate and reduce the bather load. The owner or operator shall adjust the bather load or the flow-through rate to a level that consistently produces E. Coli or fecal coliform levels less than 63 per 50 milliliters. If any E. Coli or fecal coliform sample exceeds 63 per 50 milliliters, the owner shall keep the pool closed until sample results for the pool are less than 63 per 50 milliliters as required in R392-303-19(3).

(b) The Local Health Officer may approve a reduced flow rate if the owner or operator of the geothermal pool or geothermal bathing place can demonstrate that the required bacteriological level can be maintained at the reduced flow rate.

(c) If the operator of a geothermal bathing place is unable to control the flow-through rate, the operator may meet the bacteriologic water quality standards in section R392-303-19 by controlling bather load.

(d) If the operator of a geothermal pool maintains the disinfectant levels, chloramine levels, and pH levels within the values allowed in Table 6 of R392-302 and operates a recirculation system in the pool in compliance with the requirements of R392-302-16, the pool is exempt from the flow-through rate requirements of R392-303-16(3) except the operator shall maintain a flow-through with a maximum turnover time of 48 hours, and shall meet the bacteriologic requirements of R392-302-27([+0]5)([a]d).

(4) A geothermal pool that has pumped flow shall meet the inlet requirements of R392-302-17. Geothermal bathing places and geothermal pools that have gravity flow inlets, shall either meet the requirements of R392-302-17 or the owner or operator of the pool shall demonstrate to the local health department that the inlet

system provides uniform distribution of fresh water throughout the pool. A demonstration of uniform distribution includes computer simulation or a dye test witnessed by a representative of the local health department.

(5) A geothermal pool shall have a drain that allows complete emptying of the pool. Geothermal pool and geothermal bathing place submerged drain grates and covers shall meet the requirements of R392-302-18. Geothermal pool and geothermal bathing place submerged drains shall meet the anti-entrapment requirements of R392-302-18.

(6) A geothermal pool shall have overflow gutters or skimming devices that meet the applicable requirements of R392-302-19.

(7) Geothermal pools and geothermal bathing places shall have a method to determine accurate rate-of-flow in gallons per minute. If the rate-of-flow method is a rate-of flow indicator manufactured by a third party, it shall be properly installed and located according to the manufacturer's recommendations. If a field-fabricated rate-of-flow indicator such as a calibrated weir or flume is used, it shall be designed and calibrated under the direction of a licensed professional engineer. The rate-of-flow indicator must be located in a place and positioned where it can be easily read by the operator as required in R392-303-21(2). The Local Health Officer may exempt a geothermal pool or geothermal bathing place from the requirement for a rate-of-flow indicator if the rate of flow is not adjustable or if there is no practical way to measure flow.

(8) Each geothermal pool and geothermal bathing place shall have a temperature measuring device. The operator shall measure the temperature of the pool at the warmest point. The device shall be accurate to within one degree Fahrenheit (0.6 degrees Celsius). The operator shall calibrate the thermometer in accordance with the manufacturer's specifications as necessary to ensure its accuracy.

R392-303-17. Filtration.

The owner of a flow-through geothermal pool or geothermal bathing place is not required to filter the water in the pool or bathing place, except as may be necessary to meet safety and water quality requirements. Filters shall meet the requirements of R392-302-20.

R392-303-18. Disinfectant and Chemical Feeders.

Chemical feeders or disinfectant residuals are not required in geothermal pools or geothermal bathing places, except as may be necessary to meet water quality requirements. If the operator uses any chemical, the operator shall meet the requirements of R392-302-21 for that particular chemical.

R392-303-19. Pool Water Quality.

(1) The water in a geothermal pool or geothermal bathing place must have sufficient clarity at all times so that a black disc 6 inches, 15.24 centimeters, in diameter, is readily visible if placed on a white field at the deepest point of the pool (or at 12 feet, 3.66 meters, deep for pools over 12 feet, 3.66 meters, deep). The owner or operator shall close the pool or bathing place immediately if this requirement is not met. A soaking tub~~[or similar fixture with a volume of 70 gallons or less]~~ is exempt from the clarity requirements of this subsection.

(2) The local health department or pool sampler contracted by the local health department shall collect routine bacteriological samples of the pool water at least once per month and at least two weeks apart. The local health department or their contractor may collect additional samples for investigative purposes or as a follow-up of unsatisfactory samples. The Local Health Officer shall choose or approve the dates and times that the samples are collected based on when a representative level of bacteria would likely be found. The local health department or person sampling the pool shall submit the bacteriological samples to a laboratory approved by under R444-14 to perform E. coli or fecal coliform testing.

(a) The local health department or its contracted pool sampler, as required by local health department, shall have the laboratory analyze the sample for either E. coli or fecal coliform.

(b) If the pool sampler submits the sample as required by local health department, the sampler shall require the laboratory to report sample results within five working days to the local health department and operator.

(3) If the E. coli or fecal coliform levels are found to be greater than the maximum level of 63 per 50 milliliters, the owner or operator shall close the pool until sample results show the level is below 63. As an alternative to closing the pool until sample results show acceptable bacteriological levels, the operator may temporarily close the pool and commence feeding a disinfectant to the pool water, meeting the requirements of R392-303-18 and the disinfectant concentration and pH requirements of R392-302-27, and then reopen the pool at least 45 minutes after the required disinfectant level has been achieved. The feeding of disinfectant to the pool must continue until samples of pool water and the source water pass the bacteriological standards required for disinfected pools in R392-302-27 (5) (d) (ii).

(4) If E. coli or fecal coliform levels are greater than one per 50 milliliters, the pool operator shall post the level found as required in R392-303-22.

(5) The owner or operator of a geothermal pool or geothermal bathing place should maintain the pool water temperature at a maximum of 104 degrees Fahrenheit, 40 degrees Celsius. A geothermal pool or geothermal bathing place that exceeds 104 degrees Fahrenheit, 40 degrees Celsius, at the minimum required turnover rate shall have, and employ when necessary, a method of temperature reduction in the pool or bathing place that maintains the minimum flow-through rate required under R392-303-16(3). An approved method of temperature reduction may include methods such as the introduction of cool water from a source that has been analyzed and approved according to R392-303-5(2) or approved for drinking water by the Utah Division of Drinking Water, or such as the direct cooling of the geothermal source water by a heat exchanger, or the diversion of the geothermal source water to allow it to cool prior to entering the pool or impoundment. The temperature reduction method shall be capable of reducing the temperature of the pool within 2 hours of activation from the maximum anticipated temperature to below 104 degrees Fahrenheit, 40 degrees Celsius. If the temperature of the source water or cooling rate of the pool is difficult to control, a temperature drift of up to four degrees Fahrenheit, 2.2 degrees Celsius, is allowed if the owner or operator has activated the temperature reduction measure. The owner or operator of a geothermal pool or geothermal bathing place shall not permit bathers to use the pool if

the temperature is above 108 degrees Fahrenheit, 42.2 degrees Celsius, except the owner may allow a bather to use a soaking tub or similar fixture with a volume of 70 gallons or less and a water temperature less than or equal to 110 degrees Fahrenheit, 43.3 degrees Celsius.

R392-303-20. Cleaning Pools.

(1) The owner or operator of a geothermal pool shall remove any visible dirt on the bottom of the pool at least once every 24 hours or more frequently as needed to keep the pool free of dirt and debris.

(2) The owner or operator of a geothermal pool or geothermal bathing place shall clean the water surface of the pool as often as needed to keep the pool free of scum or floating matter.

(3) The owner or operator of a geothermal pool shall keep pool surfaces, decks, handrails, floors, walls, and ceilings of rooms enclosing pools, dressing rooms and equipment rooms clean, sanitary, and in good repair. The owner or operator of a geothermal bathing place shall keep handholds, handrails, entrance points, walkways, dressing rooms, and equipment rooms clean and in good repair.

R392-303-21. Supervision of Pools and Bathing Places.

(1) Geothermal pools and geothermal bathing places shall meet the requirements of R392-302-29(1).

(2) The operator of a geothermal pool or geothermal bathing place shall record the flow-through rate and pool temperature prior to opening the pool or bathing place each day. To verify bather load, the operator shall record the number of patrons at the geothermal bathing place or pool every four hours that the geothermal bathing place or pool is open for use or shall record the time of day that each user checks in. If a pool uses disinfection or filtration, the operator shall keep the disinfection and filtration records required in R392-302-29. The Local Health Officer may reduce the requirement for the frequency of record keeping if a decreased frequency is more reasonable considering the likelihood of a change in the values recorded. The owner or operator shall make the records required by this section available for inspection by representatives of the local health department and shall retain the records for at least three years.

R392-303-22. Caution Sign Content.

(1)(a) The operator of a geothermal pool or a geothermal bathing place in which the requirements of Table 6 in R392-302-27 are not met for disinfectant residual shall post a caution sign with the following bulleted points:

-WATER IN THIS POOL CONTAINS NO DISINFECTANT

-BATHING IN THIS POOL MAY INCREASE YOUR RISK OF INFECTIOUS DISEASE

-PERSONS SUFFERING FROM A COMMUNICABLE DISEASE TRANSMISSIBLE BY WATER SHALL NOT ENTER THE WATER

-KEEP POOL WATER OUT OF YOUR MOUTH AND NOSE.

(b) The operator shall post an additional sign or an addition to the sign required by this section that describes the results of the sample using a changeable element such as a "white board" or attachable digits. The sign shall state:

-THE MOST RECENT BACTERIAL RESULT OF WATER FROM THIS POOL WAS (the changeable element shall be placed at this point with the most recent fecal coliform or E. coli count per 50 milliliters posted). FOR COMPARISON, A NON-GEOTHERMAL POOL CANNOT EXCEED 1

(c) If ozone or ultraviolet light is used to treat the water, the following statement may be added to the sign; the statement shall be verbatim and state the method of treatment:

-TREATED WITH (UV LIGHT or OZONE or UV LIGHT AND OZONE if both are used)-PROVIDES SHORT-TERM DISINFECTION ONLY.

(2) If a geothermal pool or geothermal bathing place is operated at a temperature greater than or equal to 100 degrees Fahrenheit, 37.8 degrees Celsius, the operator shall post a separate caution sign that includes the following bulleted points:

-POOL WATER MAY EXCEED 100 DEGREES F. (37.8 DEGREES C.)

-CONSULT A PHYSICIAN IF YOU: ARE ELDERLY OR PREGNANT; HAVE HEART DISEASE, DIABETES, OR HIGH BLOOD PRESSURE; OR USE PRESCRIPTION MEDICATION

-DO NOT USE POOL IF ALONE OR UNDER THE INFLUENCE OF ANY IMPAIRING SUBSTANCE

-DO NOT USE POOL FOR MORE THAN 15 MINUTES AT A TIME

-CHILDREN UNDER 5 ARE PROHIBITED; CHILDREN UNDER 14 MUST BE WITH A PERSON OVER 18 YEARS

(3) Except at a geothermal pool or a geothermal bathing place where head-first entry is permitted, the operator shall post a warning sign that states, "NO HEAD-FIRST ENTRY" in accordance with R392-303-23 and 24.

(4) If the geothermal pool or bathing place source water fails any of the standards found in Table 1, the operator shall post a warning sign that states the following:

-POOL WATER DOES NOT MEET EPA DRINKING WATER STANDARDS FOR (the failed constituent or constituents listed in Table 1).

-(The analytical result of each failed constituent and the value of the Table 1 standard that has not been met.) For example: ARSENIC IN THE POOL IS 35 PARTS PER BILLION; EPA STANDARDS ALLOW ONLY 10.

-THERE MAY BE HEALTH RISKS ASSOCIATED WITH BATHING IN THIS WATER.

- USE AT YOUR OWN RISK

R392-303-23. Caution Sign Placement.

(1) The operator of a geothermal pool or geothermal bathing place shall post caution and warning signs that meet the requirements of this rule in conspicuous locations that are in the line of sight of a persons using the premises and readily visible so that all persons are alerted to potential hazards and informed before using the geothermal pool or geothermal bathing place.

(a) The operator shall place the caution sign required in subsection R392-303-22(1) at the reception or sales counter and no more than 10 feet from where a person checks in or pays for the use of the pool. The sign shall be visible to potential customers before they pay for entry or pass the reception or sales counter. If there are multiple geothermal pools or geothermal bathing places at the

facility, the operator shall display on the caution sign at the reception or sales counter the bacterial count of the geothermal pool or geothermal bathing place in the facility that had the highest level of E. coli or fecal coliform found in the most recent sampling event. [~~The operator shall post an additional sign required in R392-303-22(1) at each pool or bathing place. The operator shall post the sign in a location and position readily visible and within ten feet, 3 meters, of at least one point at the water's edge. The operator shall display on the additional sign the most recent E. coli or fecal coliform count of the particular geothermal pool or geothermal bathing place.]~~

(b) The operator shall place any caution sign required in subsection R392-303-22(2) either:

(i) next to the sign required in subsection R392-303-22(1) if the pool or ~~all~~ any pool[s] may exceed 100 degrees Fahrenheit, 37.8 degrees Celsius; or

(ii) within 10 feet of the entrance or entrances to each pool that is operated at a temperature greater than or equal to 100 degrees Fahrenheit, 37.8 degrees Celsius.

(c) The operator shall place any warning sign required in subsection R392-303-22(3) either:

(i) next to the sign(s) required in subsection R392-303-22(1) if the pool or all pools do not permit head-first entry; or

(ii) within 10 feet of the entrance or entrances to each pool that does not permit head-first entry.

(d) The operator shall place any warning sign required in subsection R392-303-22(4) either:

(i) next to the sign(s) required in subsection R392-303-22(1); or

(ii) within 10 feet of the entrance or entrances to each pool.

(2) In lieu of meeting the signage requirements listed in R392-303-22 and 23(1), the operator may have the patron sign a document that contains the same language as required for the signs required in R392-303-22. The signature is to acknowledge that the patron has received the information. The document shall disclose the most recent bacteriologic analysis results. The operator shall make a copy of the document available to each patron upon request. The operator shall retain the disclosure documents for at least one year and make them available for inspection by public health officials.

R392-303-24. Caution Sign Format Requirements.

(1) The caution sign required by R392-303-22(1) and R392-303-22(2) shall meet the following requirements:

(a) The signs shall be at least 24 inches, 61 centimeters, by 18 inches, 46 centimeters, on a white background. If the sign is larger than 24 inches, 61 centimeters, by 18 inches, 46 centimeters, the sizes of the other elements of the sign shall be proportionally larger.

(b) All lettering shall be in a sans serif font proportional thickness to height so as to be easily readable. Acceptable fonts are arial bold, folio medium, franklin gothic, helvetica, helvetica bold, meta bold, news gothic bold, poster gothic, and universe. In addition, the letters shall be:

(i) black in color;

(ii) capital letters; and

(iii) adequately spaced and not crowded.

(c) There must be a panel at the top of the sign. The background of the panel shall be safety yellow in color and shall:

(i) be at least 3.3 centimeters, high and 44 centimeters wide, including a black line border that is 0.16 centimeters wide surrounding the safety yellow background;

(ii) have the word "CAUTION" in capital letters that are two centimeters high; and

(iii) have an internationally recognized safety alert symbol that is two centimeters high and placed immediately to the left of the word "CAUTION".

(d) The safety alert symbol shall be black with a yellow field.

(e) The word "CAUTION" and the symbol shall be vertically and horizontally centered within the yellow panel.

(f) The letters in the body of the sign shall be legible, at least one centimeter high, and clearly visible.

(g) The body of the sign required in subsection R392-303-22(1) shall list the bulleted statements required in that section.

(h) The body of the sign required in subsection R392-303-22(2) shall list the bulleted statements required in that section.

(2) The warning sign required by R392-303-22(3) and R392-303-22(4) shall meet the following requirements:

(a) The signs shall be at least 17 inches, 43 centimeters, by 11 inches, 28 centimeters, on a white background. If the sign is larger than 17 inches, 43 centimeters, by 11 inches, 28 centimeters, the sizes of the other elements of the sign shall be proportionally larger.

(b) All lettering shall be in a sans serif font proportional thickness to height so as to be easily readable. Acceptable fonts are arial, arial bold, folio medium, franklin gothic, helvetica, helvetica bold, meta bold, news gothic bold, poster gothic, and universe. In addition, the letters shall be:

(i) black in color;

(ii) capital letters; and

(iii) adequately spaced and not crowded.

(c) There must be a panel at the top of the sign. The background of the panel shall be safety orange in color and shall:

(i) be at least 3.3 centimeters, high and 41 centimeters wide, including a black line border that is 0.16 centimeters wide surrounding the safety orange background;

(ii) have the word "WARNING" in capital letters that are two centimeters high; and

(iii) have an internationally recognized safety alert symbol that is two centimeters high and placed immediately to the left of the word "WARNING".

(d) The safety alert symbol shall be black with a safety orange field.

(e) The word "WARNING" and the symbol shall be vertically and horizontally centered within the orange panel.

(f) The letters in the body of the sign shall be legible, at least one inch (2.54 centimeters) high, and clearly visible

(g) The body of the sign required in subsection R392-303-22(3) shall display the text "NO HEAD-FIRST ENTRY". The text on the body shall be centered vertically and horizontally in the space below the orange panel with "NO HEAD-FIRST" on one line and "ENTRY" on the line below.

(h) The body of the sign required in subsection R392-303-22(4) shall list the bulleted statements required in that section.

R392-303-25. Enforcement and Penalties.

A person who violates a provision of this rule is subject to a civil penalty of up to \$10,000 for each offense as provided in Section 26-23-6.

KEY: geothermal pools, geothermal natural bathing places, hot springs, geothermal spas

Date of Enactment or Last Substantive Amendment: [~~May 17, 2010~~]2014

Authorizing, and Implemented or Interpreted Law: 26-15-2

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-1-5

Incorporations by Reference

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 38191

FILED: 12/16/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection 26-18-3(2)(a) requires the Medicaid program to implement policy through administrative rules. The Department, in order to draw down federal funds, must have an approved State Plan with the Centers for Medicare and Medicaid Services (CMS). The purpose of this change, therefore, is to incorporate the most current Medicaid State Plan by reference and to implement by rule ongoing Medicaid policy described in the Home Health Agencies Utah Medicaid Provider Manual with its attachment; Medical Supplies Utah Medicaid Provider Manual; Hospital Services Utah Medicaid Provider Manual with its attachments; Speech-Language Services Utah Medicaid Provider Manual; Audiology Services Utah Medicaid Provider Manual; Hospice Care Utah Medicaid Provider Manual; Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual; Personal Care Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services for Individuals 65 or Older Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services for Individuals with Acquired Brain Injury Age 18 and Older Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services for Individuals with Physical Disabilities Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services Autism Waiver Utah Medicaid Provider Manual;

Office of Inspector General Administrative Hearings Procedures Manual; Pharmacy Services Utah Medicaid Provider Manual; Coverage and Reimbursement Code Look-up Tool; Certified Nurse - Midwife Services Utah Medicaid Provider Manual; CHEC Services Utah Medicaid Provider Manual with its attachments; Chiropractic Medicine Utah Medicaid Provider Manual; Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual; General Attachments for the Utah Medicaid Provider Manual; Indian Health Utah Medicaid Provider Manual; Laboratory Services Utah Medicaid Provider Manual with its attachments; Medical Transportation Utah Medicaid Provider Manual; Mental Health Centers/Prepaid Mental Health Plans Utah Medicaid Provider Manual; Non-Traditional Medicaid Health Plan Utah Medicaid Provider Manual with its attachments; Certified Family Nurse Practitioner and Pediatric Nurse Practitioner Utah Medicaid Provider Manual; Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual; Physician Services and Anesthesiology Utah Medicaid Provider Manual with its attachments; Podiatric Services Utah Medicaid Provider Manual; Primary Care Network Utah Medicaid Provider Manual with its attachments; Psychology Services Utah Medicaid Provider Manual; Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual; Rehabilitative Mental Health Services for Children Under Authority of Department of Human Services, Division of Child and Family Services or Division of Juvenile Justice Services Utah Medicaid Provider Manual; Rural Health Clinic Services Utah Medicaid Provider Manual with its attachments; School-Based Skills Development Services Utah Medicaid Provider Manual; Section I: General Information of the Utah Medicaid Provider Manual; Services for Pregnant Women Utah Medicaid Provider Manual; Substance Abuse Treatment Services and Targeted Case Management Services for Substance Abuse Utah Medicaid Provider Manual; Targeted Case Management for CHEC Medicaid Eligible Children Utah Medicaid Provider Manual; Targeted Case Management for the Chronically Mentally Ill Utah Medicaid Provider Manual; Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual; and Vision Care Services Utah Medicaid Provider Manual.

SUMMARY OF THE RULE OR CHANGE: Section R414-1-5 is changed to incorporate the Utah Medicaid State Plan and approved State Plan Amendments (SPAs) by reference to 01/01/2014. These SPAs include: SPA 13-019-UT, Quality Improvement Incentive, which updates and continues quality incentive programs for nursing facilities and Intermediate Care Facilities for Persons with Intellectual Disabilities (ICFs/ID) in future state fiscal years; SPA 13-022-UT Outpatient Hospital Upper Payment, which updates and clarifies outpatient hospital Upper Payment Limit methodology; SPA 13-025 Home Health Services, which updates the definition of home health services, clarifies services and limitations, updates references, and reorganizes home health information; SPA 13-026-UT Physical Therapy and Occupational Therapy, which updates, clarifies and reorganizes physical therapy and occupational therapy

services for eligible Medicaid recipients; SPA 13-027-UT Physician Fee Schedules, which updates and clarifies coding information in the State Plan by removing extraneous information that more appropriately exists in other administrative systems; SPA 13-030-UT Reimbursement for Dental Services, which facilitates client access to dental services by requiring dental providers in the urban counties of Utah, who wish to be reimbursed at an enhanced rate, to sign an agreement to see 100 or more clients during a one-year period; SPA 13-033-UT State Disregard of Income and Resources, which disregards all income and resources of a child for whom there is a State adoption assistance agreement in effect; SPA 14-0002-MM Eligibility Process, which streamlines applications, application renewals, coordination for enrollment, and eligibility agreements for the eligibility process; SPA 14-0005-MM State Residency, which affirms residency regulations for the Department and also addresses interstate agreements and temporary absence; and SPA 14-0006-MM Citizenship and Immigration Status, which affirms citizenship regulations, specifies reasonable opportunity options, and specifies policy options related to immigrant eligibility. This rule change also incorporates by reference the Medical Supplies Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Hospital Services Utah Medicaid Provider Manual with its attachments, effective 01/01/2014; incorporates by reference the Home Health Agencies Utah Medicaid Provider Manual, and the manual's attachment for the Private Duty Nursing Acuity Grid, effective 01/01/2014; incorporates by reference the Speech-Language Services Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Audiology Services Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Hospice Care Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual, with its attachments, effective 01/01/2014; incorporates by reference the Utah Home and Community-Based Waiver Services for Individuals 65 or Older Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Personal Care Utah Medicaid Provider Manual, with its attachments, effective 01/01/2014; incorporates by reference the Utah Home and Community-Based Waiver Services for Individuals with Acquired Brain Injury Age 18 and Older Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Utah Home and Community-Based Waiver Services for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Utah Home and Community-Based Waiver Services for Individuals with Physical Disabilities Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Utah Home and Community-Based Waiver Services for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Utah Home and Community-Based Waiver Services Autism Waiver Utah

Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Office of Inspector General Administrative Hearings Procedures Manual, effective 01/01/2014; incorporates by reference the Pharmacy Services Utah Medicaid Provider Manual with its attachments, effective 01/01/2014; incorporates by reference the Coverage and Reimbursement Code Look-up Tool, effective 01/01/2014; incorporates by reference the Certified Nurse - Midwife Services Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the CHEC Services Utah Medicaid Provider Manual with its attachments, effective 01/01/2014; incorporates by reference the Chiropractic Medicine Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the General Attachments for the Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Indian Health Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Laboratory Services Utah Medicaid Provider Manual with its attachments, effective 01/01/2014; incorporates by reference the Medical Transportation Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Mental Health Centers/ Prepaid Mental Health Plans Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Non-Traditional Medicaid Health Plan Utah Medicaid Provider Manual with its attachments, effective 01/01/2014; incorporates by reference the Certified Family Nurse Practitioner and Pediatric Nurse Practitioner Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Physician Services and Anesthesiology Utah Medicaid Provider Manual with its attachments, effective 01/01/2014; incorporates by reference the Podiatric Services Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Primary Care Network Utah Medicaid Provider Manual with its attachments, effective 01/01/2014; incorporates by reference the Psychology Services Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Rehabilitative Mental Health Services for Children Under Authority of Department of Human Services, Division of Child and Family Services or Division of Juvenile Justice Services Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Rural Health Clinic Services Utah Medicaid Provider Manual with its attachments, effective 01/01/2014; incorporates by reference the School-Based Skills Development Services Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference Section I: General Information of the Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Services for Pregnant Women Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Substance Abuse Treatment Services and Targeted Case

Management Services for Substance Abuse Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Targeted Case Management for CHEC Medicaid Eligible Children Utah Medicaid Provider Manual, effective 01/01/2014; incorporates by reference the Targeted Case Management for the Chronically Mentally Ill Utah Medicaid Provider Manual, effective 01/01/2014; Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual, effective 01/01/2014; and Vision Care Services Utah Medicaid Provider Manual, effective 01/01/2014.

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

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates General Attachments for the Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates School-Based Skills Development Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Audiology Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Section I: General Information of the Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Chiropractic Medicine Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Removes Oral Maxillofacial Surgeon Services, published by Division of Medicaid and Health Financing, 10/01/2013
- ◆ Updates Rehabilitative Mental Health Services for Children Under Authority of Department of Human Services, Division of Child and Family Services or Division of Juvenile Justice Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Home Health Agencies Utah Medicaid Provider Manual, and the manual's attachment for the Private Duty Nursing Acuity Grid, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates CHEC Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Podiatric Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Hospice Care Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Utah Home and Community-Based Waiver Services for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual, published by Division of

Medicaid and Health Financing, 01/01/2014

- ◆ Updates Utah Home and Community-Based Waiver Services for Individuals with Physical Disabilities Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Certified Family Nurse Practitioner and Pediatric Nurse Practitioner Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Utah Home and Community-Based Waiver Services for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Personal Care Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Coverage and Reimbursement Code Look-up Tool, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Mental Health Centers/Prepaid Mental Health Plans Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Targeted Case Management for the Chronically Mentally Ill Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Certified Nurse - Midwife Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Vision Care Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Medical Supplies Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Utah Medicaid State Plan, published by Centers for Medicare and Medicaid Services, 01/01/2014
- ◆ Updates Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid

Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014

- ◆ Updates Rural Health Clinic Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Laboratory Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Hospital Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Non-Traditional Medicaid Health Plan Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Utah Home and Community-Based Waiver Services for Individuals with Acquired Brain Injury Age 18 and Older Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Substance Abuse Treatment Services and Targeted Case Management Services for Substance Abuse Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Utah Home and Community-Based Waiver Services Autism Waiver Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Services for Pregnant Women Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Medical Transportation Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Psychology Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Primary Care Network Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Speech-Language Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Indian Health Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Physician Services and Anesthesiology Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 01/01/2014

- ◆ Updates Office of Inspector General Administrative Hearings Procedures Manual, published by Office of Inspector General and Medicaid Services, 01/01/2014
- ◆ Updates Utah Home and Community-Based Waiver Services for Individuals 65 or Older Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Targeted Case Management for CHEC Medicaid Eligible Children Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2014
- ◆ Updates Pharmacy Services Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 01/01/2014

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and in the Look-up Tool do not create costs or savings to the Department or other state agencies.
- ◆ **LOCAL GOVERNMENTS:** There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and in the Look-up Tool do not create costs or savings to local governments.
- ◆ **SMALL BUSINESSES:** There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and in the Look-up Tool do not create costs or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and in the Look-up Tool do not create costs or savings to Medicaid recipients and to Medicaid providers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and in the Look-up Tool do not create costs or savings to a single Medicaid recipient or to a Medicaid provider.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No impact on business as it makes no changes in current operations.

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2014

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

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

R414-1. Utah Medicaid Program.

R414-1-5. Incorporations by Reference.

The Department incorporates the [~~October~~January 1, 201[3]4] versions of the following by reference:

- (1) Utah Medicaid State Plan, including any approved amendments, under Title XIX of the Social Security Act Medical Assistance Program;
- (2) Medical Supplies Utah Medicaid Provider Manual, Section 2, Medical Supplies, as applied in Rule R414-70;
- (3) Hospital Services Utah Medicaid Provider Manual with its attachments;
- (4) [~~Definitions found in the~~]Home Health Agencies Utah Medicaid Provider Manual, and the manual's attachment for the Private Duty Nursing Acuity Grid;
- (5) Speech-Language Services Utah Medicaid Provider Manual;
- (6) Audiology Services Utah Medicaid Provider Manual;
- (7) Hospice Care Utah Medicaid Provider Manual;
- (8) Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual with its attachments;
- (9) Personal Care Utah Medicaid Provider Manual with its attachments;
- (10) Utah Home and Community-Based Waiver Services for Individuals 65 or Older Utah Medicaid Provider Manual;
- (11) Utah Home and Community-Based Waiver Services for Individuals with Acquired Brain Injury Age 18 and Older Utah Medicaid Provider Manual;

- (12) Utah Home and Community-Based Waiver for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual;
- (13) Utah Home and Community-Based Waiver Services for Individuals with Physical Disabilities Utah Medicaid Provider Manual;
- (14) Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual;
- (15) Utah Home and Community-Based Waiver Services for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual;
- (16) Utah Home and Community-Based Waiver Services Autism Waiver Utah Medicaid Provider Manual;
- (17) Office of Inspector General Administrative Hearings Procedures Manual;
- (18) Pharmacy Services Utah Medicaid Provider Manual with its attachments;
- (19) Coverage and Reimbursement Code Look-up Tool found at <http://health.utah.gov/medicaid/stplan/lookup/CoverageLookup.php> ;
- (20) Certified Nurse - Midwife Services Utah Medicaid Provider Manual;
- (21) CHEC Services Utah Medicaid Provider Manual with its attachments;
- (22) Chiropractic Medicine Utah Medicaid Provider Manual;
- (23) Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual;
- (24) General Attachments for the Utah Medicaid Provider Manual;
- (25) Indian Health Utah Medicaid Provider Manual;
- (26) Laboratory Services Utah Medicaid Provider Manual with its attachments;
- (27) Medical Transportation Utah Medicaid Provider Manual;
- (28) Mental Health Centers/Prepaid Mental Health Plans Utah Medicaid Provider Manual;
- (29) Non-Traditional Medicaid Health Plan Utah Medicaid Provider Manual with its attachments;
- (30) Certified Family Nurse Practitioner and Pediatric Nurse Practitioner Utah Medicaid Provider Manual;
- ~~(31) Oral Maxillofacial Surgeon Services Utah Medicaid Provider Manual;~~
- (3[2]1) Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual;
- (3[3]2) Physician Services and Anesthesiology Utah Medicaid Provider Manual with its attachments;
- (3[4]3) Podiatric Services Utah Medicaid Provider Manual;
- (3[5]4) Primary Care Network Utah Medicaid Provider Manual with its attachments;
- (3[6]5) Psychology Services Utah Medicaid Provider Manual;
- (3[7]6) Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual;
- (3[8]7) Rehabilitative Mental Health Services for Children Under Authority of Department of Human Services,

- Division of Child and Family Services or Division of Juvenile Justice Services Utah Medicaid Provider Manual;
- (3[9]8) Rural Health Clinic Services Utah Medicaid Provider Manual with its attachments;
- ([40]39) School-Based Skills Development Services Utah Medicaid Provider Manual;
- (4[1]0) Section I: General Information of the Utah Medicaid Provider Manual;
- (4[2]1) Services for Pregnant Women Utah Medicaid Provider Manual;
- (4[3]2) Substance Abuse Treatment Services [~~&~~]and Targeted Case Management Services for Substance Abuse Utah Medicaid Provider Manual;
- (4[4]3) Targeted Case Management for CHEC Medicaid Eligible Children Utah Medicaid Provider Manual;
- (4[5]4) Targeted Case Management for the Chronically Mentally Ill Utah Medicaid Provider Manual;
- (4[6]5) Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual; and
- (4[7]6) Vision Care Services Utah Medicaid Provider Manual.

KEY: Medicaid
Date of Enactment or Last Substantive Amendment: [~~November 7, 2013~~]2014
Notice of Continuation: March 2, 2012
Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3; 26-34-2

Health, Family Health and
 Preparedness, Licensing
R432-3
 General Health Care Facility Rules
 Inspection and Enforcement

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 38173
 FILED: 12/12/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the inspection process, licensed providers sometimes deny access to our staff at various levels, asking what rule gives us authority to review, inspect, and copy documents. The statute gives us the authority, as well as the agreement that the licensed provider signs as part of the license application. However, this amendment clearly establishes in one location that the Department may access licensed facilities and agencies. The Health Facility Committee reviewed and approved these rule amendments on 11/13/2013.

SUMMARY OF THE RULE OR CHANGE: The amendment adds a new Section R432-3-4, Access for Inspection, which defines who can inspect the licensed providers, what can be reviewed and copied, and what the licensed provider must allow. It clarifies that copies taken by the Department are property of the Department, and therefore no longer subject to the HIPAA privacy and security requirements.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This rule amendment will have no effect on state budgets since there will be no change in current practice.
- ◆ **LOCAL GOVERNMENTS:** This rule amendment will have no effect on local government budgets since there will be no change in current practice.
- ◆ **SMALL BUSINESSES:** This rule amendment will have no effect on small businesses since there will be no change in current practice.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule amendment will have no effect on persons since there will be no change in current practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule amendment will have no effect on persons since there will be no change in current practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no effect on business because this makes no modification of current practice.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Carmen Richins by phone at 801-538-9087, by FAX at 801-538-6024, or by Internet E-mail at carmenrichins@utah.gov
- ◆ Joel Hoffman by phone at 801-538-6279, by FAX at 801-538-6024, or by Internet E-mail at jhoffman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2014

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

R432. Health, Family Health and Preparedness, Licensing.

R432-3. General Health Care Facility Rules Inspection and Enforcement.

R432-3-1. Legal Authority.

This rule is adopted pursuant to Title 26, Chapter 21.

R432-3-2. Purpose.

This rule delineates the role and responsibility of the Department and the licensing agency in the enforcement of rules and regulations pertaining to health, safety, and welfare in all licensed and unlicensed health facilities and agencies regulated by Title 26, Chapter 21. These provisions provide guidelines and criteria to ensure that sanctions are applied consistently and appropriately.

R432-3-3. Deemed Status.

The Department may grant licensing deemed status to facilities and agencies accredited by The Joint Commission (TJC), Accreditation Association for Ambulatory Health Care (AAAHC), Accreditation Commission for Health Care, Community Health Accreditation Program or the American Osteopathic Association's Health Facilities Accreditation Program (AOA/HFAP) in lieu of the licensing inspection by the Department upon completion of the following by the facility or agency:

(1) As part of the license renewal process, the licensee shall identify on the Request for Agency Action/Application its desire to:

- (a) initiate deemed status,
- (b) continue deemed status, or
- (c) relinquish deemed status during the licensing year of application.

(2) This request shall constitute written authorization for the Department to attend the accrediting agency exit conference.

(3) Upon receipt from the accrediting agency, the facility shall submit copies of the following:

- (a) accreditation certificate;
- (b) Joint Commission Statement of Construction;
- (c) survey reports and recommendations;
- (d) progress reports of all corrective actions underway or completed in response to accrediting body's action or Department recommendations.

(4) Regardless of deemed status, the Department may assert regulatory responsibility and authority pursuant to applicable state and federal statutes to include:

- (a) inspections,
- (b) complaint investigations,
- (c) verification of the violations of state law, rule, or standard identified in a Department survey or, violations of state law, rule, or standard identified in the accrediting body's survey including:

(i) facilities and agencies granted a provisional or conditional accreditation by the Joint Commission until a full accreditation status is achieved,

(ii) any facility or agency that does not have a current, valid accreditation certificate, or

(iii) construction, expansion, or remodeling projects required to comply with standards for construction promulgated in the rules by the Health Facility Committee.

(5) The Department may annually conduct validation inspections of facilities or agencies accredited for the purpose of determining compliance with state licensing requirements. If a validation survey discloses a failure to comply with the standards for licensing, the provisions relating to regular inspections shall apply.

R432-3-4. Access for Inspections.

(1) The Department or its designee may, upon presentation of proper identification, inspect each licensed health care facility or agency as necessary to determine compliance with applicable laws, rules and federal regulations.

(2) Each licensed health care facility or agency must:

(a) allow authorized representatives of the Department immediate access to the facility or agency, including access to all staff and patients; and

(b) make available and permit photocopying of facility records and documents by, or on behalf of, the Department as necessary to ascertain compliance with applicable laws, rules and federal regulations. Copies become the responsibility and property of the Department.

R432-3-5[4]. Statement of Findings.

~~(1) [The Department or its designee may inspect each facility or agency at least once during each year that a license has been granted, to determine compliance with standards and the applicable rules and regulations.~~

~~(2)]Whenever the Department has reason to believe that a health facility or agency is in violation of Title 26, Chapter 21 or any of the rules promulgated by the Health Facility Committee, the Department shall serve a written Statement of Findings to the licensee or his designee within the following timeframe.~~

~~(a) Statements for Class I and III violations are served immediately.~~

~~(b) Statements for Class II violations are served within ten working days.~~

~~(2[3]) Violations shall be classified as Class I, Class II, and Class III violations.~~

~~(a) "Class I Violation" means any violation of a statute or rule relating to the operation or maintenance of a health facility or agency which presents imminent danger to patients or residents of the facility or agency or which presents a clear hazard to the public health.~~

~~(b) "Class II Violation" means any violation of a statute or rule relating to the operation or maintenance of a health facility or agency which has a direct or immediate relationship to the health, safety, or security of patients or residents in a health facility or agency.~~

~~(c) "Class III Violation" means establishing, conducting, managing, or operating a health care facility or agency regulated under Title 26, Chapter 21 and this rule without a license or with an expired license.~~

~~(3[4]) The Department may cite a facility or agency with one or more rule or statute violations. If the Department finds that there are no violations, a letter shall be sent to the facility acknowledging the inspection findings.~~

~~(4[5]) The Statement of Findings shall include:~~

~~(a) the statute or rule violated;~~

~~(b) a description of the violation;~~

~~(c) the facts which constitute the violation; and~~

~~(d) the classification of the violation.~~

R432-3-6[5]. Plan of Correction.

(1) A health facility or agency shall submit within 14 calendar days of receipt of a Statement of Findings a Plan of Correction outlining the following:

(a) how the required corrections shall be accomplished;

(b) who is the responsible person to monitor the correction is accomplished; and

(c) the date the facility or agency will correct the violation.

(2) Within ten working days of receipt of the Plan of Correction, the Department shall make a determination as to the acceptability of the Plan of Correction.

(3) If the Department rejects the Plan of Correction, the Department shall notify the facility or agency of the reasons for rejection and may request a revised Plan of Correction or issue a Notice of Agency Action directing a Plan of Correction and imposing a deadline for the correction. If the Department requests a revised Plan of Correction, the facility or agency shall submit the revised Plan of Correction within 14 days of receipt of the Department request.

(4) If the facility or agency corrects the violation prior to submitting the Plan of Correction, the facility or agency shall submit a report of correction.

(5) If violations remain uncorrected after the time specified for completion in the Plan of Correction or if the facility or agency fails to submit a Plan of Correction as specified, the Department shall notify the facility or agency.

(6) Any person aggrieved by the agency action shall have the right to seek review under the provisions outlined in Rule R432-30, Adjudicative Proceedings.

(7) If a licensed or unlicensed health facility or agency is served with a Statement of Findings citing a Class I violation, the facility or agency shall correct the situation, condition, or practice constituting the Class I violation immediately, unless a fixed period of time is determined by the Department and is specified in the Plan of Correction.

(a) The Department shall conduct a follow-up inspection within 14 calendar days or within the agreed-upon correction period to determine correction of Class I violations.

(b) If a health facility or agency fails to correct a Class I violation as outlined in the accepted Plan of Correction, the Department shall pursue sanctions or penalties through a formal adjudicative proceeding as outlined in Rule R432-30.

(8) A facility or agency served with a Statement of Findings citing a Class II violation shall correct the violation within the time specified in the Plan of Correction or within a time-frame approved by the Department which does not exceed 60 days unless justification is provided in the accepted Plan of Correction.

(9) The Department may issue a conditional license or impose sanctions to the license or initiate a formal adjudicative proceeding to close the facility or agency if a facility or agency is cited with a Class II violation and fails to take required corrective action as outlined in Rule R432-30.

(10) The Department shall determine which sanction to impose by considering the following:

(a) the gravity of the violation;

(b) the effort exhibited by the licensee to correct violations;

(c) previous facility or agency violations; and

(d) other relevant facts.

(11) The Department shall serve a facility or agency with a Statement of Findings for a Class III violation. A facility or agency cited for a Class III violation must file a Request for Agency Action/License Application form and pay the required licensing fee within 14 days of the receipt of the Class III Statement of Findings.

(a) The Statement of Findings may include the names of individuals residing in the facility who require services outside the scope of the proposed licensing category.

(b) The facility shall arrange for all individuals to be relocated if the facility is unable to meet the individuals' needs within the scope of the proposed license category.

(c) If the facility or facility fails to submit the Request for Agency Action/License Application as specified, the Department shall issue a written Notice of Agency Action ordering closure of the facility or agency.

(d) If the Executive Director determines that the lives, health, safety or welfare of the patients or residents cannot be adequately assured pending a full formal adjudicative proceeding, he may order immediate closure of the facility or agency under an emergency adjudicative proceeding, as outlined in Rule R432-30.

R432-3-7[6]. Sanction Action on License.

(1) The Department may initiate an action against a health facility or agency pursuant to Section 26-21-11. That action may include the following sanctions:

(a) denial or revocation of a license if the facility or agency fails to comply with the rules established by the Committee, or demonstrates conduct adverse to the public health, morals, welfare, and safety of the people of the state;

(b) restriction or prohibition on admissions to a health facility or agency for:

(i) any Class I deficiency,

(ii) Class II deficiencies that indicate a pattern of care and have resulted in the substandard quality of care of patients,

(iii) repeat Class I or II deficiencies that demonstrate continuous noncompliance or chronic noncompliance with the rules, or

(iv) permitting, aiding, or abetting the commission of any illegal act in the facility or agency;

(c) distribution of a notice of public disclosure to at least one newspaper of general circulation or other media form stating the violation of licensing rules or illegal conduct permitted by the facility or agency and the Department action taken;

(d) placement of Department employees or Department-approved individuals as monitors in the facility or agency until such time as corrective action is completed or the facility or agency is closed;

(e) assessment of the cost incurred by the Department in placing the monitors to be reimbursed by the facility or agency;

(f) during the correction period, placement of a temporary manager to ensure the health and safety of the patients; or

(g) issuance of a civil money penalty pursuant to UCA 26-23-6, not to exceed the sum of \$10,000 per violation.

(2) If the Department imposes a restriction or prohibition on admissions to a long-term care facility or agency, the Department shall send a written notice to the licensee.

(a) The licensee shall post the copies of the notice on all public entry doors to the licensed long-term care facility or agency.

(b) The Department shall impose the restriction or prohibition if:

(i) the long-term care facility or agency has previously received a restriction or prohibition on admissions within the previous 24 month period; or

(ii) the long-term care facility or agency has failed to meet the timeframes in the Plan of Correction which is the basis for the restriction or prohibition on admissions; or

(iii) circumstances in the facility or agency indicate actual harm, a pattern of harm, or a serious and immediate threat to patients.

(3) If telephone inquiries are made to a long-term care facility or agency with a restriction or prohibition on admissions, the facility or agency shall inform the caller, during the call, about the restriction or prohibition on admissions. If the facility or agency fails to inform the caller, the department may assess penalties as allowed by statute and shall require the facility or agency to post a written notice on all public entry doors.

R432-3-8[7]. Immediate Closure of Facility.

(1) The Department may order the immediate closure of any licensed or unlicensed health facility or agency when the health, safety, or welfare of the patients or residents cannot be assured pending a full formal adjudicative proceeding.

(2) The provisions for an emergency adjudicative proceeding as provided in section 63-46b-20 shall be followed.

(3) If the Department determines to close a facility or agency, it shall serve an order that the facility or agency is ordered closed as of a given date. The order shall:

(a) state the reasons the facility is ordered closed;

(b) cite the statute or rule violated; and

(c) advise as to the commencement of a formal adjudicative proceeding in accordance with this rule.

(4) The Department may maintain an action in the name of the state for injunction or other process against the health facility or agency which disobeys a closure order as provided in section 26-21-15.

(5) The Department may assist in relocating patients or residents to another licensed facility or agency.

(6) The Department may pursue other lesser sanctions in lieu of the closure order.

(7) The Department may, in addition to emergency closure, seek criminal penalties.

R432-3-9[8]. Mandatory License Revocation.

(1) The Department may revoke a license or refuse to renew a license for a health care facility that is in chronic noncompliance with one or more of the rule requirements identified as mandatory license revocation criteria in the rules specific to the facility or agency licensing category.

(2) The Department may not revoke a license or refuse to renew a license for chronic noncompliance on the third or subsequent violation unless it has documented within 14 working days from receipt of the Statement of Findings two prior violations and given the licensee or facility administrator a written warning notice. The written notice shall include a statement that continued violation could result in revocation of the license.

(3) If the Department revokes the license because of chronic noncompliance and the evidence supports the Department's finding of chronic noncompliance, no lesser sanction may be substituted, either by the Department or upon subsequent review by the Health Facility Committee or the courts.

KEY: health care facilities

Date of Enactment or Last Substantive Amendment: [~~April 24, 2013~~2014]

Notice of Continuation: August 12, 2013

Authorizing, and Implemented or Interpreted Law: 26-21-5; 26-21-14 through 26-21-16

**Money Management Council,
Administration
R628-20
Foreign Deposits for Higher Education
Institutions**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 38179

FILED: 12/13/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is required by Subsection 51-7-17(4)(a). This language was added in the 2013 General Legislative Session under H.B. 376 to allow for foreign deposits by higher education institutions for purposes of conducting academic, research, or clinical activities in a foreign country. This section requires that rules be written by the Council to allow them to do so.

SUMMARY OF THE RULE OR CHANGE: This rule adds requirements for higher education institutions when depositing funds into depositories in foreign countries for the purposes of academic, research, or clinical activities. It provides rating requirements for the depository and the country and prohibits deposits in countries that have sanctions against them or are high risk or non-cooperative jurisdictions. The rule states that the Council must approve the depository and the higher education institution must inform the Council of the purpose of the use of a foreign depository. It does give the Council the ability to approve deposits into foreign depositories that do not meet the criteria, if there are facts that make it prudent to do so. The rule contains reporting requirements by the higher education institutions semi-annually regarding the amount in the foreign depository and the current debt ratings of that depository.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-7-601 and Subsection 51-7-17(4)(a) and Subsection 51-7-4(1)(b)(iii)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule does not affect the state as it is allowing only higher education institutions the ability to deposit funds in foreign depositories.

◆ **LOCAL GOVERNMENTS:** There will be minimal cost to any higher education institution to open up a depository account with a foreign depository.

◆ **SMALL BUSINESSES:** This rule does not affect small businesses as it pertains to higher education institutions and foreign depositories only.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule does not affect any other persons as it pertains only to higher education institutions and foreign depositories.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs as this rule does not apply to any other person, it affects only higher education institutions and a foreign depository that they may utilize.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no incremental costs or savings to government agencies or to private businesses, and no incremental compliance costs. The rule authorizes an additional and optional investment vehicle for public entities. It does not apply to private businesses or individuals.

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

MONEY MANAGEMENT COUNCIL
ADMINISTRATION
ROOM 180 UTAH STATE CAPITOL COMPLEX
350 N STATE ST
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Ann Pedroza by phone at 801-538-1883, by FAX at 801-538-1465, or by Internet E-mail at apedroza@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2014

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2014

AUTHORIZED BY: Mark McRae, Chair, Money Management Council

R628. Money Management Council.

R628-20. Foreign Deposits for Higher Education Institutions.

R628-20-1. Purpose.

To provide guidelines to higher education institutions when depositing funds in foreign countries.

R628-20-2. Authority.

This rule is issued pursuant to Section 51-7-17(4)(a) and Section 53B-7-601.

R628-20-3. Scope.

This rule relates to funds of higher education institutions that are either required by law of a foreign country to be deposited in the foreign country or are required by the terms of a grant, gift, or contract to be deposited in the foreign country.

R628-20-4. Definitions.

(1) The following terms are defined in Section 51-7-3 of the Act and when used in this rule have the same meaning as in the Act:

(a) "Council";

(b) "Nationally Recognized Statistical Rating Organization" or "NRSRO".

(2) For purposes of this rule "FDI" means foreign depository institution as defined in Section 7-1-103 of the Utah Code.

R628-20-5. Requirements for Deposits.

(1) To be qualified for deposit under Section 53B-7-60 the FDI shall:

(a) be insured or otherwise have a similar protection if that country does not technically provide insurance;

(b) be rated "A" or better by one NRSRO; and

(c) be domiciled in a country in which the sovereign debt rating is "A" or better by the NRSRO.

R628-20-6. Prohibited Deposits.

(1) Use of FDIs in any country or territory described below is prohibited.

(a) Countries subject to sanctions by the Office of Foreign Assets Control (OFAC); and

(b) Countries and territories on the Financial Action Task Force's (FATF) list of high risk and non-cooperative jurisdictions.

(2) Financial Crimes Enforcement Network (FinCEN) advisories must be reviewed by the higher education institution to ensure that potential anti-money laundering and counter-terrorist financing risks associated with any country are assessed, identified and avoided before establishing deposits in the FDI.

(3) The FDI may not be listed on the U.S. Treasury's Specially Designated Nationals (SDN) list.

R628-20-7. Approval by the Council.

(1) The Council must approve the FDI.

(2) Prior to approval by the Council, the higher education institution must present to the Council the reasoning and purpose for the use of a FDI.

(3) Upon review of such reasoning and purpose, the Council will decide whether to give final approval to allow funds to be deposited in the FDI.

(4) The Council may approve an FDI that does not otherwise fall within the requirement of R628-20-5, when other facts make it reasonably prudent to do so.

(5) In approving an FDI, the Council may place restrictions on the use of the FDI when the Council determines it would be reasonably prudent to do so.

(a) It is the responsibility of the higher education institution to monitor any restriction placed on the FDI and if

violated, to notify the Council of the issue within 30 days of the violation and provide a plan of action in regards to the violation.

R628-20-8. Reporting by Higher Education Institutions of Foreign Deposits.

(1) The higher education institution shall file a written report with the Council on or before July 31 and January 31 of each year containing the following information for deposits held on June 30 and December 31 respectively:

(a) Total market value of the deposit account which will include previous historical ending balances (up to 3 years);

(b) Total market value of uninsured deposits in the deposit account, which will include previous historical ending balances (up to 3 years);

(c) Debt rating of the FDI; and

(d) Debt rating of the country in which the FDI is located.

KEY: foreign deposits, higher education, public funds

Date of Enactment or Last Substantive Amendment: 2014

Authorizing, and Implemented or Interpreted Law: 51-7-4(1)(b)(iii); 51-7-17(4)(a); 53B-7-601

Money Management Council, Administration

R628-21

Conditions and Procedures for the Use of Reciprocal Deposits

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 38180

FILED: 12/13/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is required by Subsections 51-7-17(4)(b) and 51-7-18(2)(b). This type of investment was added in the 2013 General Legislative Session and a rule was required to be written by H.B. 376.

SUMMARY OF THE RULE OR CHANGE: This rule provides the conditions under which a public entity may utilize reciprocal deposits. It provides for limits on how much of a public entity's funds may be invested in these types of deposits and requires public entities to report the amount of reciprocal deposits it has semi-annually to the Council. This rule requires a deposit account registry service that has Utah public funds, to maintain errors and omissions coverage and also report to the Department of Financial Institutions monthly the amount of Utah public funds in these types of deposits.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 51-7-17(4)(b) and Subsection 51-7-18(2)(b)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There will be not cost or savings to the state budget as the rule provides procedures to public entities investing in these types of deposits.
- ◆ **LOCAL GOVERNMENTS:** Local government entities are not affected as this is an additional investment available to them.
- ◆ **SMALL BUSINESSES:** This rule only affects public entities and reciprocal depository providers.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Reciprocal depository providers will have no additional cost or savings as they already provide services to non-public entities in Utah.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The reports required will not cause additional compliance costs for the reciprocal depository provider as these reports are already generated for other reporting purposes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no incremental costs or savings to government agencies or to private businesses, and no incremental compliance costs. The rule authorizes an additional and optional investment vehicle for public entities. It does not apply to private businesses or individuals.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 MONEY MANAGEMENT COUNCIL
 ADMINISTRATION
 ROOM 180 UTAH STATE CAPITOL COMPLEX
 350 N STATE ST
 SALT LAKE CITY, UT 84114
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Ann Pedroza by phone at 801-538-1883, by FAX at 801-538-1465, or by Internet E-mail at apedroza@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2014

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2014

AUTHORIZED BY: Mark McRae, Chair, Money Management Council

R628. Money Management Council.**R628-21. Conditions and Procedures for the Use of Reciprocal Deposits.****R628-21-1. Authority.**

This rule is issued pursuant to Section 51-7-17(4)(b) and 51-7-18(2)(b).

R628-21-2. Scope.

This rule applies to all public treasurers who purchase reciprocal deposits and to all qualified depositories providing reciprocal deposits.

R628-21-3. Purpose.

The purpose of this rule is to establish requirements for the investing of public funds in reciprocal deposits.

R628-21-4. Definitions.

For purposes of this rule the following terms are defined in Section 51-7-3 of the Act and when used in this rule have the same meaning as in the Act:

- (1) Council;
- (2) Commissioner;
- (3) Public funds;
- (4) Public treasurer;
- (5) Qualified depository, and;
- (6) Reciprocal deposits.

R628-21-5. General Rule.

(1) A public treasurer may invest public funds in reciprocal deposits only through qualified depositories that use a deposit account registry service. The public funds placed with a qualified depository into reciprocal deposits does not apply towards the maximum public funds allotment for that qualified depository as described in R628-11.

(2) Reciprocal deposits may only be initiated by qualified depository institutions and then re-deposited through a deposit account registry service as follows:

- (a) in one or more FDIC insured depository institutions in amounts up to the relevant FDIC-insured deposit limit for a depositor in each depository institution; and
- (b) in exchange for reciprocal FDIC-insured deposits made through the deposit account registry service to the qualified depository.

R628-21-6. Limitation on Use of Reciprocal Deposits.

The maximum amount of any public treasurer's portfolio that can be invested in reciprocal deposits shall be as follows:

- (1) Portfolios of \$10,000,000 or less may not invest more than 10% of the total portfolio in reciprocal deposits.
- (2) Portfolios greater than \$10,000,000 but less than \$20,000,000 may not invest more than \$1,000,000 in reciprocal deposits.
- (3) Portfolios of \$20,000,000 or more may not invest more than 5% of the total portfolio in reciprocal deposits.

R628-21-7. Insurance Requirements for a Deposit Account Registry Service.

A deposit account registry service shall provide the public entity with proof of errors and omissions coverage equal to five percent of Utah public funds under management but not less than \$1,000,000 nor more than \$10,000,000 per occurrence.

R628-21-8. Reporting Requirements.

(1) A public entity shall file a written report with the Council of reciprocal deposits on or before July 31 and January 31.

of each year for deposits held on June 30 and December 31, respectively.

(2) Within 10 days of the end of each month, each qualified depository institution holding reciprocal deposits on behalf of public treasurers shall file a report with the Commissioner of the total month-end amount of Utah public funds in reciprocal deposits initially deposited into the qualified depository institution and currently re-deposited in one or more FDIC insured depository institutions.

KEY: public funds, qualified depository, reciprocal deposits
Date of Enactment or Last Substantive Amendment: 2014
Authorizing, and Implemented or Interpreted Law: 51-7-17(4)(b); 51-7-18(2)(b)

Natural Resources, Wildlife Resources

R657-5

Taking Big Game

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 38168
FILED: 12/10/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council meetings and the Wildlife Board meeting conducted for taking public input and reviewing the big game rule.

SUMMARY OF THE RULE OR CHANGE: The proposed revision to the above listed rule: 1) allows for the use of crossbows, draw-locks, and magnifying scopes on muzzleloaders during the any weapon hunts; 2) adds wildlife convention permits to the "limited entry permit" and "Once-in-a-Lifetime permit" definitions; 3) removes the definition of "Resident" and "Valid Application"; 4) clarifies the definition of "spike bull"; 5) defines the "youth" age for big game permit holders; 6) defines "Prescribed legal weapon"; and 7) makes clerical corrections.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18 and Section 23-14-19

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This amendment adds additional opportunity to use crossbows, draw-locks, and magnifying scopes on any weapon hunts, as well as adds definitions to the rule and makes clerical corrections, it does not increase workload for the agency therefore, the Division of Wildlife Resources (DWR) determines that this amendment does not create a cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** Since this amendment only adds additional opportunity to use crossbows, draw-locks, and magnifying scopes on any weapon hunts, as well as adds definitions to the rule and makes clerical corrections it does not place additional requirements on individual hunters or the local governments, the division finds that this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** This amendment adds additional opportunity to use crossbows, draw-locks, and magnifying scopes on any weapon hunts, as well as adds definitions to the rule and makes clerical corrections, it does not have the potential to generate a cost or savings impact to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment adds additional opportunity to use crossbows, draw-locks, and magnifying scopes on any weapon hunts, as well as adds definitions to the rule and makes clerical corrections, it does not have the potential to generate a cost or savings impact to sportsmen or the other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment adds additional opportunity to use crossbows, draw-locks, and magnifying scopes on any weapon hunts, as well as adds definitions to the rule and makes clerical corrections, it does not have the potential to generate a cost or savings impact to sportsmen or the other persons. DWR determines that this amendment will not create additional costs for those who participate in wildlife-related activities in Utah.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not have a potential to create an impact on businesses.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2014

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2014

AUTHORIZED BY: Gregory Sheehan, Director

R657. Natural Resources, Wildlife Resources.

R657-5. Taking Big Game.

R657-5-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for taking deer, elk, pronghorn, moose, bison, bighorn sheep, and Rocky Mountain goat.

(2) Specific dates, areas, methods of take, requirements, and other administrative details which may change annually are published in the guidebook of the Wildlife Board for taking big game.

R657-5-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Antlerless deer" means a deer without antlers or with antlers five inches or shorter.

(b) "Antlerless elk" means an elk without antlers or with antlers five inches or shorter.

(c) "Antlerless moose" means a moose with antlers shorter than its ears.

(d) "Arrow quiver" means a portable arrow case that completely encases all edges of the broadheads.

(e) "Buck deer" means a deer with antlers longer than five inches.

(f) "Buck pronghorn" means a pronghorn with horns longer than five inches.

(g) "Bull elk" means an elk with antlers longer than five inches.

(h) "Bull moose" means a moose with antlers longer than its ears.

(i) "Cow bison" means a female bison.

(j) "Doe pronghorn" means a pronghorn without horns or with horns five inches or shorter.

(k) [~~"Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.~~]
"Draw-lock" means a mechanical device used to hold and support the draw weight of a conventional or compound bow at any increment of draw until released by the archer using a trigger mechanism and safety attached to the device.

(l) "Hunter's choice" means either sex may be taken.

(m) "Limited entry hunt" means any hunt published in the hunt tables of the guidebook of the Wildlife Board for taking big game, which is identified as limited entry and does not include general or once-in-a-lifetime hunts.

(n) "Limited entry permit" means any permit obtained for a limited entry hunt by any means, including conservation permits, wildlife convention permits, sportsman permits, cooperative wildlife management unit permits and limited entry landowner permits.

(o) "Once-in-a-lifetime hunt" means any hunt published in the hunt tables of the guidebook of the Wildlife Board for taking big game, which is identified as once-in-a-lifetime, and does not include general or limited entry hunts.

(p) "Once-in-a-lifetime permit" means any permit obtained for a once-in-a-lifetime hunt by any means, including conservation permits, wildlife conventions permits, sportsman permits, cooperative wildlife management unit permits and limited entry landowner permits.

(q) "Ram" means a male desert bighorn sheep or Rocky Mountain bighorn sheep.

(r)(i) "Resident" for purposes of this rule means a person who:

~~(A) has been domiciled in the state of Utah for six consecutive months immediately preceding the purchase of a license or permit; and~~

~~(B) does not claim residency for hunting, fishing, or trapping in any other state or country.~~

~~(ii) A Utah resident retains Utah residency if that person leaves this state:~~

~~(A) to serve in the armed forces of the United States or for religious or educational purposes; and~~

~~(B) complies with Subsection (m)(i)(B).~~

~~(iii)(A) A member of the armed forces of the United States and dependents are residents for the purposes of this chapter as of the date the member reports for duty under assigned orders in the state if the member:~~

~~(I) is not on temporary duty in this state; and~~

~~(II) complies with Subsection (m)(i)(B).~~

~~(iv) A copy of the assignment orders must be presented to a division office to verify the member's qualification as a resident.~~

~~(v) A nonresident attending an institution of higher learning in this state as a full-time student may qualify as a resident for purposes of this chapter if the student:~~

~~(A) has been present in this state for 60 consecutive days immediately preceding the purchase of the license or permit; and~~

~~(B) complies with Subsection (m)(i)(B).~~

~~(vi) A Utah resident license or permit is invalid if a resident license for hunting, fishing, or trapping is purchased in any other state or country.~~

~~(vii) An absentee landowner paying property tax on land in Utah does not qualify as a resident.~~

~~(s) "Spike bull" means a bull elk which has at least one antler having no branching above the ears. Branched means a projection on an antler longer than one inch, measured from its base to its tip.) "Spike bull" means a bull elk which has at least one antler beam with no branching above the ears. Branched means a projection on an antler longer than one inch, measured from its base to its tip.~~

[~~(t)(i) "Valid application" means:~~

~~(A) it is for a species that the applicant is eligible to possess a permit;~~

~~(B) there is a hunt for that species regardless of estimated permit numbers; and~~

~~(C) there is sufficient information on the application to process the application, including personal information, hunt information, and sufficient payment.~~

~~(ii) Applications missing any of the items in Subsection (a) may still be considered valid if the application is timely corrected through the application correction process.~~

]

R657-5-3. License, Permit, and Tag Requirements.

(1) A person may engage in hunting protected wildlife or in the sale, trade, or barter of protected wildlife or ~~their~~its parts in accordance with Section 23-19-1 and the rules or guidebooks of the Wildlife Board.

(2) Any license, permit, or tag that is mutilated or otherwise made illegible is invalid and may not be used for taking or possessing big game.

(3) A person must possess or obtain a Utah hunting or combination license to apply for or obtain any big game hunting permit.

R657-5-10. Muzzleloaders.

(1) A muzzleloader may be used during any big game hunt, except an archery hunt, provided the muzzleloader:

- (a) can be loaded only from the muzzle;
- (b) has open sights, peep sights, or a fixed non-magnifying 1x scope, except as provided in Subsection (4) and R657-12;
- (c) has a single barrel;
- (d) has a minimum barrel length of 18 inches;
- (e) is capable of being fired only once without reloading;
- (f) powder and bullet, or powder, sabot and bullet are not bonded together as one unit for loading;
- (g) is loaded with black powder or black powder substitute, which must not contain smokeless powder.

(2)(a) A lead or expanding bullet or projectile of at least 40 caliber must be used to hunt big game.

(b) A bullet 130 grains or heavier, or a sabot 170 grains or heavier must be used for taking deer and pronghorn.

(c) A 210 grain or heavier bullet must be used for taking elk, moose, bison, bighorn sheep, and Rocky Mountain goat, except sabot bullets used for taking these species must be a minimum of 240 grains.

(3)(a) A person who has obtained a muzzleloader permit for a big game hunt may:

(i) use only muzzleloader equipment authorized in this ~~Section~~Subsections (1) and (2) to take the species authorized in the permit; and

(ii) not possess or be in control of a rifle or shotgun while in the field during the muzzleloader hunt.

(A) "Field" for purposes of this section, means a location where the permitted species of wildlife is likely to be found. "Field" does not include a hunter's established campsite or the interior of a fully enclosed automobile or truck.

(b) The provisions of Subsection (a) do not apply to:

(i) a person licensed to hunt upland game or waterfowl provided the person complies with Rules R657-6 and R657-9 and the Upland Game Guidebook and Waterfowl Guidebook, respectively, and possessing only legal weapons to take upland game or waterfowl;

(ii) a person licensed to hunt big game species during hunts that coincide with the muzzleloader hunt;

(iii) livestock owners protecting their livestock; or

(iv) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take protected wildlife.

(4) A person who has obtained an any weapon permit for a big game hunt may use muzzleloader equipment authorized in this Section to take the species authorized in the permit, including a fixed or variable magnifying scope.

R657-5-11. Archery Equipment.

(1) Archery equipment may be used during any big game hunt, except a muzzleloader hunt, provided:

(a) the minimum bow pull is 40 pounds at the draw or the peak, whichever comes first; and

(b) arrowheads used have two or more sharp cutting edges that cannot pass through a 7/8 inch ring;

(c) expanding arrowheads cannot pass through a 7/8 inch ring when expanded, and

(d) arrows must be a minimum of 20 inches in length from the tip of the arrowhead to the tip of the nock, and must weigh at least 300 grains.

(2) The following equipment or devices may not be used to take big game:

(a) a crossbow, except as provided in Subsection (5) and Rule R657-12;

(b) arrows with chemically treated or explosive arrowheads;

(c) a mechanical device for holding the bow at any increment of draw, except as provided in Subsection (5) and Rule R657-12;

(d) a release aid that is not hand held or that supports the draw weight of the bow, except as provided in Subsection (5) and Rule R657-12; or

(e) a bow with an attached electronic range finding device or a magnifying aiming device.

(3) Arrows carried in or on a vehicle where a person is riding must be in an arrow quiver or a closed case.

(4)(a) A person who has obtained an archery permit for a big game hunt may :

(i) use only archery equipment authorized in ~~this section~~Subsections (1) and (2) to take the species authorized in the permit; and

(ii) not possess or be in control of a crossbow, draw-lock rifle, shotgun or muzzleloader while in the field during an archery hunt.

(A) "Field" for purposes of this section, means a location where the permitted species of wildlife is likely to be found. "Field" does not include a hunter's established campsite or the interior of a fully enclosed automobile or truck.

(b) The provisions of Subsection (a) do not apply to:

(i) a person licensed to hunt upland game or waterfowl provided the person complies with Rules R657-6 and R657-9 and the Upland Game Guidebook and Waterfowl Guidebook, respectively, and possessing only ~~legal~~the weapons authorized to take upland game or waterfowl;

(ii) a person licensed to hunt big game species during hunts that coincide with the archery hunt, provided the person is in compliance with the regulations of that hunt and possesses only the weapons authorized for that hunt;

(iii) livestock owners protecting their livestock;~~or~~

(iv) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code,

provided the person is not utilizing the concealed firearm to hunt or take protected wildlife; or

(v) a person possessing a crossbow or draw-lock under a certificate of registration issued pursuant to R657-12.

(5) A person who has obtained an any weapon permit for a big game hunt may use archery equipment authorized in this Section to take the species authorized in the permit, including a crossbow or draw-lock.

(6)(a) A crossbow used to hunt big game must have:

(i) a minimum draw weight of 125 pounds;

(ii) a minimum draw length of 14 inches, measured between the latch (nocking point) and where the bow limbs attach to the stock;

(iii) an overall length of at least 24 inches, measured between the butt stock end and where the bow limbs attach to the stock; and

(iv) a positive mechanical safety mechanism.

(b) A crossbow arrow or bolt used to hunt big game must be at least 16 inches long and have:

(i) fixed broadheads that are at least 7/8 inch wide at the widest point; or

(ii) expandable, mechanical broadheads that are at least 7/8 inch wide at the widest point when the broadhead is in the open position.

(c) It is unlawful for any person to:

(i) hunt big game with a crossbow during a big game archery hunt, except as provided in R657-12-8;

(ii) carry a cocked crossbow containing an arrow or a bolt while in or on any motorized vehicle on a public highway or other public right-of-way, except as provided in R657-12-4; or

(iii) hunt any protected wildlife with a crossbow:

(A) bolt that has any chemical, explosive or electronic device attached;

(B) that has an attached electronic range finding device; or

(C) that has an attached magnifying aiming device, except as provided in Subsection (7).

(7) A crossbow used to hunt big game during an any weapon hunt may have a fixed or variable magnifying scope.

R657-5-12. Areas With Special Restrictions.

(1)(a) Hunting of any wildlife is prohibited within the boundaries of all park areas, except those designated by the Division of Parks and Recreation in Rule R651-614-4.

(b) Hunting with rifles and handguns in park areas designated open is prohibited within one mile of all park area facilities, including buildings, camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches.

(c) Hunting with shotguns or archery equipment is prohibited within one-quarter mile of the areas provided in Subsection (b).

(2) Hunting is closed within the boundaries of all national parks ~~and monuments~~ unless otherwise provided by the governing agency.

(3) Hunters obtaining a Utah license, permit or tag to take big game are not authorized to hunt on tribal trust lands. Hunters must obtain tribal authorization to hunt on tribal trust lands.

(4) Military installations, including Camp Williams, are closed to hunting and trespassing unless otherwise authorized.

(5) In Salt Lake County, a person may not hunt big game within one-half mile of Silver Lake in Big Cottonwood Canyon.

(6) Hunting is closed within a designated portion of the town of Alta. Hunters may refer to the town of Alta for boundaries and other information.

(7) Domesticated Elk Facilities and Domesticated Elk Hunting Parks, as defined in Section 4-39-102(2) and Rules R58-18 and R58-20, are closed to big game hunting. This restriction does not apply to the lawful harvest of domesticated elk as defined and allowed pursuant to Rule R58-20.

(8) State waterfowl management areas are closed to taking big game, except as otherwise provided in the guidebook of the Wildlife Board for taking big game.

(9) Hunters are restricted to using archery equipment, muzzleloaders or shotguns on the Scott M. Matheson [Wetlands] Wetland Preserve.

(10) A person may not discharge a firearm, except a shotgun or muzzleloader, from, upon, or across the Green River located near Jensen, Utah from the Highway 40 bridge upstream to the Dinosaur National Monument boundary.

R657-5-13. Spotlighting.

(1) Except as provided in Section 23-13-17:

(a) a person may not use or cast the rays of any spotlight, headlight, or other artificial light to:

(i) take protected wildlife; or

(ii) ~~locate~~ locate protected wildlife while ~~having~~ in possession of a rifle, shotgun, archery equipment, crossbow or muzzleloader.

(b) the use of a spotlight or other artificial light in a field, woodland, or forest where protected wildlife are generally found is prima facie evidence of attempting to locate protected wildlife.

(2) The provisions of this section do not apply to:

(a) the use of headlights or other artificial light in a usual manner where there is no attempt or intent to locate protected wildlife; or

(b) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take wildlife.

R657-5-16. Big Game Contests.

A person may not enter or hold a big game contest that:

(1) is based on big game or ~~their~~ its parts; and

(2) offers cash or prizes totaling more than \$500.

R657-5-19. Exporting Big Game From Utah.

(1) A person may export big game or ~~their~~ its parts from Utah only if:

(a) the person who harvested the big game animal accompanies it and possesses a valid permit corresponding to the tag which must be attached to the largest portion of the carcass; or

(b) the person exporting the big game animal or its parts, if it is not the person who harvested the animal, has obtained a shipping permit from the division.

R657-5-20. Purchasing or Selling Big Game or [Their]Its Parts.

(1) A person may only purchase, sell, offer or possess for sale, barter, exchange or trade any big game or [their]its parts as follows:

(a) Antlers, heads and horns of legally taken big game may be purchased or sold only on the dates published in the guidebook of the Wildlife Board for taking big game;

(b) Untanned hides of legally taken big game may be purchased or sold only on the dates published in the guidebook of the Wildlife Board for taking big game;

(c) Inedible byproducts, excluding hides, antlers and horns[~~, or~~] of legally possessed big game as provided in Subsection 23-20-~~[3(1)(d)]~~3, may be purchased or sold at any time;

(d) tanned hides of legally taken big game may be purchased or sold at any time; and

(e) shed antlers and horns may be purchased or sold at any time.

(2)(a) Protected wildlife that is obtained by the division by any means may be sold or donated at any time by the division or its agent.

(b) A person may purchase or receive protected wildlife from the division, which is sold or donated in accordance with Subsection (2)(a), at any time.

(3) A person selling or purchasing antlers, heads, horns or untanned hides shall keep transaction records stating:

(a) the name and address of the person who harvested the animal;

(b) the transaction date; and

(c) the permit number of the person who harvested the animal.

(4) Subsection (3) does not apply to scouting programs or other charitable organizations using untanned hides.

R657-5-22. Poaching-Reported Reward Permits.

(1) For purposes of this section, "successful prosecution" means the screening, filing of charges and subsequent adjudication of guilt for the poaching incident.

(2) Any person who provides information leading to another person's successful prosecution under Section 23-20-4 for wanton destruction of a bull moose, desert bighorn ram, rocky mountain bighorn ram, rocky mountain goat, bison, bull elk, buck deer or buck pronghorn [~~under Section 23-20-4 for~~]within any once-in-a-lifetime [~~species~~]or [~~within any~~]limited entry area may receive a permit from the division to hunt [~~for~~]the same species~~and~~ on the same once-in-a-lifetime or limited entry area where the violation occurred, except as provided in Subsection (3).

(3)(a) In the event that issuance of a poaching-reported reward permit would exceed 5% of the total number of limited entry or once-in-a-lifetime permits issued in the following year for the respective area, a permit shall not be issued for that respective area. As an alternative, the division may issue a permit as outlined in Subsections (b) or (c).

(b) If the illegally taken animal is a bull moose, desert bighorn ram, rocky mountain bighorn ram, rocky mountain goat or bison, a permit for an alternative species and an alternative once-in-a-lifetime or limited entry area that has been allocated more than 20 permits may be issued.

(c) If the illegally taken animal is a bull elk, buck deer or buck pronghorn, a permit for the same species on an alternative limited entry area that has been allocated more than 20 permits may be issued.

(4)(a) The division may issue only one poaching-reported reward permit for any one animal illegally taken.

(b) No more than one poaching-reported reward permit shall be issued to any one person per successful prosecution.

(c) No more than one poaching-reported reward permit per species shall be issued to any one person in any one calendar year.

(5)(a) Poaching-reported reward permits may only be issued to the person who provides the most pertinent information leading to a successful prosecution. Permits are not transferrable.

(b) If information is received from more than one person, the director of the division shall make a determination based on the facts of the case, as to which person provided the most pertinent information leading to the successful prosecution in the case.

(c) The person providing the most pertinent information shall qualify for the poaching-reported reward permit.

(6) Any person who receives a poaching-reported reward permit must possess or obtain a Utah hunting or combination license and otherwise be eligible to hunt and obtain big game permits as provided in all rules and regulations of the Wildlife Board and the Wildlife Resources Code.

R657-5-23. General Archery Buck Deer Hunt.

(1) The dates of the general archery buck deer hunt are provided in the guidebook of the Wildlife Board for taking big game.

(2) A person who has obtained a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer may use archery equipment prescribed in R657-5-11 to take:

(a) one buck deer within the general hunt area specified on the permit for the time specified in the guidebook of the Wildlife Board for taking big game; or

(b) a deer of hunter's choice within the Wasatch Front or Uintah Basin extended archery area as provided in the guidebook of the Wildlife Board for taking big game.

(c) A person who has obtained a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer, may not hunt within Cooperative Wildlife Management unit deer areas.

(d) A person who has obtained a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer, may not hunt within premium limited entry deer and limited entry deer areas, except Crawford Mountain.

(3)(a) A person who obtains a general archery buck deer permit, or any other permit which allows that person to hunt general archery buck deer, may hunt within the Wasatch Front, Ogden or the Uintah Basin extended archery areas during the extended archery area seasons as provided in the guidebook of the Wildlife Board for taking big game and as provided in Subsection (b).

(b) A person must complete the Archery Ethics Course annually to hunt the Wasatch Front, Ogden or Uintah Basin extended archery areas during the extended archery season.

(c) A person must possess an Archery Ethics Course Certificate of Completion while hunting.

(4) A person who has obtained a general archery deer permit may not hunt during any other deer hunt or obtain any other deer permit, except antlerless deer.

(5)(a) Any person [~~+8~~17] years of age or younger on [~~the opening day~~July 31] of the [~~general archery buck deer season~~current year], may hunt by [~~region~~unit] the general archery, the general any weapon and general muzzleloader deer seasons, using the appropriate equipment [~~as provided~~prescribed] in Sections R657-5-7 through R657-5-11, [~~respectively~~], for each respective season, provided that person obtains a general any weapon or general muzzleloader deer permit for a specified [~~region~~unit].

(b) If a person [~~+8~~17] years of age or younger purchases a general archery buck deer permit, that person may only hunt during the general archery deer season and the extended archery season as provided Section R657-5-23(3).

(6) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Archers are cautioned to study rifle hunt tables and identify these areas described in the guidebook of the Wildlife Board for taking big game.

R657-5-24. General Any Weapon Buck Deer Hunt.

(1) The dates for the general any weapon buck deer hunt are provided in the guidebook of the Wildlife Board for taking big game.

(2)(a) A person who has obtained a general any weapon buck permit may use any legal weapon to take one buck deer within the hunt area specified on the permit as published in the guidebook of the Wildlife Board for taking big game.

(b) A person who has obtained a general any weapon buck deer permit, or any other permit which allows that person to hunt general any weapon buck deer, may not hunt within Cooperative Wildlife Management unit deer areas.

(c) A person who has obtained a general any weapon buck deer permit, or any other permit which allows that person to hunt general any weapon buck deer, may not hunt within premium limited entry deer and limited entry deer areas, except Crawford Mountain.

(3) A person who has obtained a general any weapon buck deer permit may not hunt during any other deer hunt or obtain any other deer permit, except:

(a) antlerless deer; and

(b) any person [~~+8~~17] years of age or younger on [~~the opening day~~July 31] of the [~~general archery buck deer season~~current year], may hunt the general archery, general any weapon and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections R657-5-7 through R657-5-11, respectively, for each respective season.

(i) If a person [~~+8~~17] years of age or younger purchases a general archery buck deer permit, that person may only hunt during the general archery deer season and the extended archery season as provided Section R657-5-23(3).

R657-5-25. General Muzzleloader Buck Deer Hunt.

(1) The dates for the general muzzleloader buck deer hunt are provided in the guidebook of the Wildlife Board for taking big game.

(2)(a) A person who has obtained a general muzzleloader buck permit may use a muzzleloader, as prescribed in R657-5-10, to take one buck deer within the general hunt area specified on the permit as published in the guidebook of the Wildlife Board for taking big game.

(b) A person who has obtained a general muzzleloader buck deer permit, or any other permit which allows that person to hunt general muzzleloader buck deer, may not hunt within Cooperative Wildlife Management unit deer areas.

(c) A person who has obtained a general muzzleloader buck deer permit, or any other permit which allows that person to hunt general muzzleloader buck deer, may not hunt within premium limited entry deer and limited entry deer areas, except Crawford Mountain.

(3) A person who has obtained a general muzzleloader deer permit may not hunt during any other deer hunt or obtain any other deer permit, except:

(a) antlerless deer; and

(b) any person [~~+8~~17] years of age or younger on [~~the opening day~~July 31] of the [~~general archery buck deer season~~current year], may hunt the general archery, general any weapon and general muzzleloader deer seasons, using the appropriate equipment as provided in Sections R657-5-7 through R657-5-11, respectively, for each respective season.

(i) If a person [~~+8~~17] years of age or younger purchases a general archery buck deer permit, that person may only hunt during the general archery deer season and the extended archery season as provided Section R657-5-23(3).

(4) Hunter orange material must be worn if a centerfire rifle hunt is also in progress in the same area as provided in Section 23-20-31. Muzzleloader hunters are cautioned to study the rifle hunt tables to identify these areas described in the guidebooks of the Wildlife Board for taking big game.

R657-5-27. Antlerless Deer Hunts.

(1) To hunt an antlerless deer, a hunter must obtain an antlerless deer permit.

(2)(a) An antlerless deer permit allows a person to take one antlerless deer, per antlerless deer tag, using any legal weapon within the area and season as specified on the permit and in the antlerless addendum.

(b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless deer permit for a cooperative wildlife management unit as specified on the permit.

(3) A person who has obtained an antlerless deer permit may not hunt during any other antlerless deer hunt or obtain any other antlerless deer permit.

(4)(a) A person who obtains an antlerless deer permit and any of the permits listed in Subsection (b) may use the antlerless deer permit during the established season for the antlerless deer permit and during the established season for the permits listed in Subsection (b) provided:

(i) the permits are both valid for the same area;

(ii) the appropriate archery equipment is used if hunting with an archery permit; and

(iii) the appropriate muzzleloader hunt equipment is used if hunting with a muzzleloader permit.

(b)(i) General archery deer;

- (ii) general muzzleloader deer;
- (iii) limited entry archery deer; or
- (iv) limited entry muzzleloader deer.

R657-5-30. General Muzzleloader Elk Hunt.

(1) The dates of the general muzzleloader elk hunt are provided in the guidebook of the Wildlife Board for taking big game within the general season elk units, except in the following closed areas:

- (a) Salt Lake County south of I-80 and east of I-15; and
- (b) elk cooperative wildlife management units.

(2)(a) General muzzleloader elk hunters may purchase either a spike bull elk permit or an any bull elk permit.

(b) A person who has obtained a general muzzleloader spike bull elk permit may use a muzzleloader, prescribed in R657-5-10, to take a spike bull elk on an any general spike bull elk unit. Any bull units are closed to spike bull muzzleloader permittees.

(c) A person who has obtained a general muzzleloader any bull elk permit may use a muzzleloader, as prescribed in R657-5-10, to take any bull elk on an any bull elk unit. Spike bull units are closed to any bull muzzleloader permittees.

(3) A person who has obtained a general muzzleloader elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsection R657-5-33(3).

R657-5-31. Youth General Any Bull Elk Hunt.

(1)(a) For purposes of this section "youth" means any person ~~[18]~~17 years of age or younger on ~~[the opening day of the youth any bull elk season published in the guidebook of the Wildlife Board for taking big game]~~July 31 of the current year.

(b) A youth may apply for or obtain a youth any bull elk permit.

(c) A youth may only obtain a youth any bull elk permit once during their youth.

(2) The youth any bull elk hunting season and areas are published in the guidebook of the Wildlife Board for taking big game.

(3)(a) A youth who has obtained a youth general any bull elk permit may take any bull elk, including antlerless elk, on a general any bull elk unit. Spike bull elk units are closed to youth general any bull elk permittees.

(b) A youth who has obtained a youth general any bull elk permit may use any legal weapon to take any bull elk as specified on the permit.

(4) A youth who has obtained a youth general any bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Section R657-5-33(3).

(5) Preference points shall not be awarded or utilized when applying for, or in obtaining, youth general any bull elk permits.

R657-5-32. Premium Limited Entry and Limited Entry Bull Elk Hunts.

(1) To hunt in a premium limited entry or limited entry bull elk area, a hunter must obtain the respective premium limited entry or limited entry elk permit.

(2)(a) A premium limited entry bull elk permit allows a person, using the prescribed legal weapon, to take one bull elk within the area and to hunt all limited entry bull elk seasons

specified in the hunt tables, published in the proclamation of the Wildlife Board for taking big game, for the area specified on the permit, except elk cooperative wildlife management units located within a premium limited entry unit. Spike bull elk restrictions do not apply to premium limited entry elk permittees.

(b) A limited entry bull elk permit allows a person, using the prescribed legal weapon, to take one bull elk within the area and season specified on the permit, except elk cooperative wildlife management units located within a limited entry unit. Spike bull elk restrictions do not apply to limited entry elk permittees.

(c) "Prescribed legal weapon" means for purposes of this subsection:

(i) archery equipment as defined in R657-5-11(1) when hunting the archery season, excluding a crossbow or draw-lock;

(ii) muzzleloader equipment as defined in R657-5-10 when hunting the muzzleloader season, excluding magnifying scopes; and

(iii) any legal weapon, including a muzzleloader and crossbow with a fixed or variable magnifying scope or draw-lock when hunting during the any weapon season.

(3)(a) A person who has obtained a premium limited entry, limited entry or cooperative wildlife management unit bull elk permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bull elk.

(b) Limited entry and cooperative wildlife management unit bull elk permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(3).

(4) A person who has obtained a premium limited entry or limited entry bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsections (4)(a) and R657-5-33(3).

R657-5-33. Antlerless Elk Hunts.

(1) To hunt an antlerless elk, a hunter must obtain an antlerless elk permit.

(2)(a) An antlerless elk permit allows a person to take one antlerless elk using any legal weapon within the area and season as specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(b) A person may not hunt on any cooperative wildlife management units unless that person obtains an antlerless elk permit for a cooperative wildlife management unit as specified on the permit.

(3)(a) A person may obtain two elk permits each year, provided one or both of the elk permits is an antlerless elk permit.

(b) For the purposes of obtaining two elk permits, a hunter's choice elk permit may not be considered an antlerless elk permit.

(4)(a) A person who obtains an antlerless elk permit and any of the permits listed in Subsection (b) may use the antlerless elk permit during the established season for the antlerless elk permit

and during the established season for the permits listed in Subsection (b) provided:

- (i) the permits are both valid for the same area;
- (ii) the appropriate archery equipment is used if hunting with an archery permit; and
- (iii) the appropriate muzzleloader hunt equipment is used if hunting with a muzzleloader permit.
- (b)(i) General buck deer for archery, muzzleloader or any legal weapon;
- (ii) general bull elk for archery, muzzleloader or any legal weapon;
- (iii) limited entry buck deer for archery, muzzleloader or any legal weapon;
- (iv) Limited entry bull elk for archery, muzzleloader or any legal weapon; or
- (v) antlerless elk.

R657-5-34. Buck Pronghorn Hunts.

(1) To hunt buck pronghorn, a hunter must obtain a buck pronghorn permit.

(2) A person who has obtained a buck pronghorn permit may not obtain any other pronghorn permit or hunt during any other pronghorn hunt.

(3)(a) A person who has obtained a limited entry or cooperative wildlife management unit buck pronghorn permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a buck pronghorn.

(b) Limited entry and cooperative wildlife management unit buck pronghorn permit holders must report hunt information by telephone, or through the Division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(3).

(4) A buck pronghorn permit allows a person [~~using any legal weapon~~] to take one buck pronghorn within the area [~~and~~], during the season, and using the weapon type specified on the permit, except [~~during the buck pronghorn archery hunt when only archery equipment may be used and~~] on buck pronghorn cooperative wildlife management unit located within a limited entry unit.

R657-5-42. Carcass Importation.

(1) It is unlawful to import dead elk, mule deer, or white-tailed deer or their parts from the areas of any state, province, game management unit, equivalent wildlife management unit, or county, which has deer or elk diagnosed with Chronic Wasting Disease, except the following portions of the carcass:

- (a) meat that is cut and wrapped either commercially or privately;
- (b) quarters or other portion of meat with no part of the spinal column or head attached;
- (c) meat that is boned out;
- (d) hides with no heads attached;

(e) skull plates with antlers attached that have been cleaned of all meat and tissue;

(f) antlers with no meat or tissue attached;

(g) upper canine teeth, also known as buglers, whistlers, or ivories; or

(h) finished taxidermy heads.

(2)(a) The affected states, provinces, game management units, equivalent wildlife management units, or counties, which have deer or elk diagnosed with Chronic Wasting Disease shall be available at division offices and through the division's Internet address.

(b) Importation of harvested elk, mule deer or white-tailed deer or ~~their~~ parts from the affected areas are hereby restricted pursuant to Subsection (1).

(3) Nonresidents of Utah transporting harvested elk, mule deer, or white-tailed deer from the affected areas are exempt if they:

(a) do not leave any part of the harvested animal in Utah and do not stay more than 24 hours in the state of Utah;

(b) do not have their deer or elk processed in Utah; or

(c) do not leave any parts of the carcass in Utah.

R657-5-44. Management Bull Elk Hunt.

(1)(a) For the purposes of this section "management bull" means any bull elk with 5 points or less on at least one antler. A point means a projection longer than one inch, measured from its base to its tip.

(b) For purposes of this section "youth" means any person [~~+8~~]17 years of age or younger on [~~the opening day of the management bull elk archery season published in the guidebook of the Wildlife Board for taking big game.~~]July 31.

(c) For the purposes of this section "senior" means any person 65 years of age or older on the opening day of the management bull elk archery season published in the guidebook of the Wildlife Board for taking big game.

(2)(a) Management bull elk permits shall be distributed pursuant to R657-62 with thirty percent of the permits being allocated to youth, thirty percent to seniors and the remaining forty percent to hunters of all ages.

(3) Management bull elk permit holders may take one management bull elk during the season, on the area and with the weapon type specified on the permit. Management bull elk hunting seasons, areas and weapon types are published in the guidebook of the Wildlife Board for taking big game.

(4)(a) A person who has obtained a management bull elk permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a management bull elk.

(b) Management bull elk permit holders must report hunt information by telephone, or through the division's Internet address.

(5)(a) Management bull elk permit holders who successfully harvest a management bull elk, as defined in Subsection (1)(a) must have their animal inspected by the division.

(b) Successful hunters must deliver the head and antlers of the elk they harvest to a division office for inspection within 48 hours after the date of kill.

(6) Management bull elk permit holders may not retain possession of any harvested bull elk that fails to satisfy the definition requirements in Subsection (1)(a).

(7) A person who has obtained a management bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Section R657-5-33(3).

R657-5-46. Management Buck Deer Hunt.

(1)(a) For the purposes of this section "management buck" means any buck deer with 3 points or less on at least one antler above and including the first fork in the antler. A point means a projection longer than one inch, measured from its base to its tip. The eye guard is not counted as a point.

(b) For purposes of this section "youth" means any person ~~[18]~~17 years of age or younger on ~~[the opening day of the management buck deer archery season published in the guidebook of the Wildlife Board for taking big game.]~~July 31.

(c) For the purposes of this section "senior" means any person 65 years of age or older on the opening day of the management buck deer archery season published in the guidebook of the Wildlife Board for taking big game.

(2) Management buck deer permits shall be distributed pursuant to rule R657-62 with thirty percent of the permits being allocated to youth, thirty percent to seniors and the remaining forty percent to hunters of all ages.

(3) Management buck deer permit holders may take one management buck deer during the season, on the area and with the weapon type specified on the permit. Management buck deer hunting seasons, areas and weapon types are published in the guidebook of the Wildlife Board for taking big game.

(4)(a) A person who has obtained a management buck deer permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a management buck deer.

(b) Management buck deer permit holders must report hunt information by telephone, or through the division's Internet address.

(5)(a) Management buck deer permit holders who successfully harvest a management buck deer, as defined in Subsection (1)(a) must have their animal inspected by the division.

(b) Successful hunters must deliver the head and antlers of the deer they harvest to a division office for inspection within 48 hours after the date of kill.

(6) Management buck deer permit holders may not retain possession of any harvested buck deer that fails to satisfy the definition requirements in Subsection (1)(a).

(7) A person who has obtained a management buck deer permit may not hunt during any other deer hunt or obtain any other deer permit, except as provided in Section R657-5-28(4).

KEY: wildlife, game laws, big game seasons

Date of Enactment or Last Substantive Amendment: ~~[July 9, 2012]~~2014

Notice of Continuation: November 1, 2010

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-16-5; 23-16-6

Natural Resources, Wildlife Resources R657-12 Hunting and Fishing Accommodations for People with Disabilities

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38169

FILED: 12/10/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the divisions' administrative rules.

SUMMARY OF THE RULE OR CHANGE: Provisions are being amended to this rule to make the requirements for using crossbows, draw-locks and magnifying scopes on muzzleloaders when hunting big game during the any weapon season consistent with Rule R657-5, Taking Big Game.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18 and Section 23-19-1 and Section 23-19-36 and Section 23-20-12 and Section 63G-3-201

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This amendment brings consistency with the crossbow, draw-locks and magnifying scopes restrictions between this rule and Rule R657-5. The Division of Wildlife Resources (DWR) has determined that this amendment may not create a cost or savings impact to the division's budget or the state budget.

◆ **LOCAL GOVERNMENTS:** This amendment brings consistency with the crossbow, draw-locks and magnifying scopes restrictions between this rule and Rule R657-5. This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the amendment. Nor are local governments indirectly impacted because the amendment does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** This amendment brings consistency with the crossbow, draw-locks and magnifying scopes restrictions between this rule and Rule R657-5. The amendment does not impose any additional requirements on small businesses and will not generate a cost or savings impact to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment brings consistency with the crossbow, draw-

locks and magnifying scopes restrictions between this rule and Rule R657-5. The amendment does not impose any additional requirements on other persons and will not generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment brings consistency with the crossbow, draw-locks and magnifying scopes restrictions between this rule and Rule R657-5. There are not any additional compliance costs associated with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2014

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2014

AUTHORIZED BY: Gregory Sheehan, Director

**R657. Natural Resources, Wildlife Resources.
 R657-12. Hunting and Fishing Accommodations for People With Disabilities.**

R657-12-1. Purpose and Authority.

Under authority of Sections 23-14-18, 23-19-1, 23-19-36, 23-20-12 and 63G-3-201, this rule provides the standards and procedures for a person with disabilities to:

- (1) obtain a certificate of registration for taking wildlife from a vehicle;
- (2) obtain a fishing license as authorized under Section 23-19-36(1);
- (3) obtain a certificate of registration to participate in companion hunting;
- (4) obtain a certificate of registration to receive a limited entry season extension;
- (5) obtain a certificate of registration to receive a general deer or elk season extension;
- (6) obtain a certificate of registration to hunt with a crossbow or draw-lock; or
- (7) obtain a certificate of registration to use telescopic sights on a weapon when otherwise prohibited.

R657-12-8. Crossbows and Draw-Locks.

(1)(a) A person who has a permanent physical impairment due to injury or disease, congenital or acquired, which renders the person so severely disabled as to be unable to use conventional archery equipment may receive a certificate of registration to use a crossbow or draw-lock to hunt big game, cougar, bear, turkey, waterfowl, small game or carp during the respective archery, any weapon hunting, or fishing seasons as provided in the applicable guidebooks of the Wildlife Board for taking protected wildlife.

(b) The division shall accept the following as evidence of eligibility to use a crossbow or draw-lock:

(i) obvious physical disability, as provided in Subsection (1)(a), demonstrating the applicant is eligible to use a crossbow or draw-lock; or

(ii) ~~provides~~ a physician's statement confirming the disability as defined in Subsection (1)(a).

(2)(a) Any crossbow used to hunt big game, cougar, bear, turkey, waterfowl or small game must ~~have:~~

~~(i) a stock that is at least 18 inches long;~~

~~(ii) comply with the requirements in R657-5-11(6), except a crossbow used to hunt turkey, waterfowl, or small game, may have a minimum draw weight of [125 pounds for big game, bear and cougar, or] 60 pounds [for turkey, waterfowl and small game];~~

~~(iii) a draw length that is at least 18 inches from the front of the crossbow to the back of the string in a cocked position; and~~

~~(iv) a positive safety mechanism.~~

~~(b) Arrows or bolts used must be:~~

~~(i) at least 18 inches long; and~~

~~(ii) must have a broadhead with two or more sharp-cutting edges that cannot pass through a 7/8 inch ring for big game, cougar, bear or turkey].~~

(3)(a) Any crossbow or drawlock used to hunt carp must have a:

(i) ~~[A-]reel with line capable of tethering the bolt to restrict the flight distance; and~~

(ii) ~~[A-]positive safety mechanism.~~

(4) ~~The following equipment or devices may not be used:~~

~~(a) arrows with chemically treated or explosive arrowheads;~~

~~(b) a bow with an attached electronic range finding device; or~~

~~(c) a bow with an attached telescopic sight, except as provided in R657-12-9.~~

~~(5) Arrows or bolts carried in or on a vehicle where a person is riding must be in an arrow quiver or a closed case.~~

~~(6) A drawn and cocked crossbow or bow with a drawlock may not be carried in or on a vehicle.~~

~~(7) Conventional bows equipped with a draw-lock and used to hunt big game must conform with the minimum draw weights, and arrow and broadhead restrictions contained in R657-5.~~

R657-12-9. Telescopic Sights.

(1) A person who has a permanent vision impairment leaving them with worse than 20/40 corrected visual acuity in the better eye may receive a Certificate of Registration to use telescopic

sights when otherwise prohibited by the rules and proclamations of the Wildlife Board; if in the professional opinion of the eye care provider telescopic sights will sufficiently mitigate the effects of the disability to enable the person to:

(a) adequately discern between lawful and unlawful wildlife species and species genders; and

(b) safely discharge a firearm or bow in the field.

(2) A person with a qualified vision impairment may obtain a Certificate of Registration from the Division to use telescopic sights, when otherwise prohibited, by submitting a signed statement [by]from a licensed ophthalmologist, optometrist or physician verifying that:

(a) the applicant has a permanent vision impairment resulting in worse than 20/40 corrected visual acuity in the better eye; and

(b) telescopic sights will sufficiently mitigate the effects of the vision impairment to enable the applicant to:

(i) adequately discern between lawful and unlawful wildlife species and species genders; and

(ii) safely discharge a firearm or bow in the field.

KEY: wildlife, wildlife law, disabled persons

Date of Enactment or last Substantive Amendment: [~~April 23, 2013~~]**2014**

Notice of Continuation: September 10, 2012

Authorizing, and Implemented or Interpreted Law: 23-20-12; 63G-3-201

Natural Resources, Wildlife Resources R657-13

Taking Fish and Crayfish

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38167

FILED: 12/09/2013

RULE ANALYSIS

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

SUMMARY OF THE RULE OR CHANGE: The proposed revision allows: 1) additional waters to open for spearfishing; 2) catch and kill provisions for specified species of fish; 3) for the disposal of catch and kill species; 4) increased possession limit to equal two daily limits on most waters; 5) chumming to occur at Lake Powell with legal baits; 6) specific regulations on determined waters as listed in the guidebook for taking fish; and 7) amends the definition of snagging.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18 and Section 23-14-19

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** These amendments provide additional opportunities to anglers and do not cause additional burdens to workloads. Therefore, DWR determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

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

◆ **SMALL BUSINESSES:** This amendment provides additional opportunities to anglers. Therefore, this rule does not impose any additional financial requirements on small businesses, nor generate a cost or saving impact to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment provides additional opportunities to anglers. Therefore, this rule does not impose any additional financial requirements on persons, nor generate a cost or saving impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment provides additional opportunities to anglers. DWR determines that these amendments do not create a cost or savings impact to individuals who participate in fishing in Utah.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2014

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2014

AUTHORIZED BY: Gregory Sheehan, Director

R657. Natural Resources, Wildlife Resources.**R657-13. Taking Fish and Crayfish.****R657-13-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19 of the Utah Code, the Wildlife Board has established this rule for taking fish and crayfish.

(2) Specific dates, areas, methods of take, requirements and other administrative details which may change annually and are pertinent are published in the proclamation of the Wildlife Board for taking fish and crayfish.

R657-13-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Aggregate" means the combined total of two or more species of fish or two or more size classes of fish which are covered by a limit distinction.

(b) "Angling" means fishing with a rod, pole, tipup, handline, or trollboard that has a single line with legal hooks, baits, or lures attached to it, and is held in the hands of, or within sight (not to exceed 100 feet) of, the person fishing.

(c)(i) "Artificial fly" means a fly made by the method known as fly tying.

(ii) "Artificial fly" does not mean a weighted jig, lure, spinner, attractor blade, or bait.

(d) "Artificial lure" means a device made of rubber, wood, metal, glass, fiber, feathers, hair, or plastic with a hook or hooks attached. Artificial lures, including artificial flies, do not include fish eggs or other chemically treated or processed natural baits or any natural or human-made food, or any lures that have been treated with a natural or artificial fish attractant or feeding stimulant.

(e) "[~~Bag~~]Daily limit" means the maximum limit, in number or amount, of protected aquatic wildlife that one person may legally take during one day.

(f) "Bait" means a digestible substance, including worms, cheese, salmon eggs, marshmallows, or manufactured baits including human-made items that are chemically treated with food stuffs, chemical fish attractants or feeding stimulants.

(g) "Camp" means, for the purposes of this rule, any place providing temporary overnight accommodation for anglers including a camper, campground, tent, trailer, cabin, houseboat, boat, or hotel.

(h) "Chumming" means dislodging or depositing in the water any substance not attached to a hook, line, or trap, which may attract fish.

(i) "Commercially prepared and chemically treated baitfish" means any fish species or fish parts which have been processed using a chemical or physical preservation technique other than freezing including irradiation, salting, cooking, or oiling and are marketed, sold or traded for financial gain as bait.

(j) "Dipnet" means a small bag net with a handle that is used to scoop fish or crayfish from the water.

(k) "Filleting" means the processing of fish for human consumption typically done by cutting away flesh from bones, skin, and body.

(l) "Fishing contest" means any organized event or gathering where anglers are awarded prizes, points or money for their catch.

(m) "Float tube" means an inflatable floating device less than 48 inches in any dimension, capable of supporting one person.

(n) "Free Shafting" means to release a pointed shaft that is not tethered or attached by physical means to the diver in an attempt to take fish while engaged in underwater spearfishing.

(o) "Gaff" means a spear or hook, with or without a handle, used for holding or lifting fish.

(p) "Game fish" means Bonneville cisco; bluegill; bullhead; channel catfish; crappie; green sunfish; largemouth bass; northern pike; Sacramento perch; smallmouth bass; striped bass; trout (rainbow, albino, cutthroat, brown, golden, brook, lake/mackinaw, kokanee salmon, and grayling or any hybrid of the foregoing); tiger muskellunge; walleye; white bass; whitefish; wiper; and yellow perch.

(q) "Handline" means a piece of line held in the hand and not attached to a pole used for taking fish or crayfish.

(r) "Immediately Released" means that the fish should be quickly unhooked and released back into the water where caught. Fish that must be immediately released cannot be held on a stringer, or in a live well or any other container or restraining device.

(s) "Lake" means the standing water level existing at any time within a lake basin. Unless posted otherwise, a stream flowing inside or within the high water mark is not considered part of the lake.

(t) "Length measurement" means the greatest length between the tip of the head or snout and the tip of the caudal (tail) fin when the fin rays are squeezed together. Measurement is taken in a straight line and not over the curve of the body.

(u) "Liftnet" means a small net that is drawn vertically through the water column to take fish or crayfish.

(v) "Motor" means an electric or internal combustion engine.

(w) "Nongame fish" means species of fish not listed as game fish.

(x) "Possession limit" means, for purposes of this rule only, [~~one bag limit~~]two daily limits, including fish at home, in a cooler, camper, tent, freezer, livewell or any other place of storage.

(y) "Protected aquatic wildlife" means, for purposes of this rule only, all species of fish, crustaceans, or amphibians.

(z) "Reservoir" means the standing water level existing at any time within a reservoir basin. Unless posted otherwise, a stream flowing inside or within the high water mark is not considered part of the reservoir.

(aa) "Second pole" means fishing with one additional rod, pole, tipup, handline, or trollboard that has a single line with legal hooks, bait, or lures attached to it and is held in the hands of, or within sight of the person fishing.

(bb) "Seine" means a small mesh net with a weighted line on the bottom and float line on the top that is drawn through the water. This type of net is used to enclose fish when its ends are brought together.

(cc) "Setline" means a line anchored to a non-moving object and not attached to a fishing pole.

(dd) "Single hook" means a hook or multiple hooks having a common shank.

(ee) "Snagging" or "gaffing" means to take a fish in a manner that the fish does not take the hook voluntarily into its mouth.

(ff) "Spear" means a long-shafted, sharply pointed, hand held instrument with or without barbs used to spear fish from above the surface of the water.

~~(gg) "Spearfishing (underwater)" means fishing by a person swimming, snorkeling, or diving and using a mechanical device held in the hand, which uses a rubber band, spring, pneumatic power, or other device to propel a pointed shaft to take fish from under the surface of the water.~~

~~(hh) "Tributary" means a stream flowing into a larger stream, lake, or reservoir.~~

~~(i) "Trout" means species of the family Salmonidae, including rainbow, albino, cutthroat, brown, golden, brook, tiger, lake (mackinaw), splake, kokanee salmon, and grayling or any hybrid of the foregoing.~~

~~(ii) "Trout" does not include whitefish or Bonneville cisco.~~

~~(ii) "Underwater spearfishing" means fishing by a person swimming, snorkeling, or diving and using a mechanical device held in the hand, which uses a rubber band, spring, pneumatic power, or other device to propel a pointed shaft to take fish from under the surface of the water.~~

R657-13-3. Fishing License Requirements and Free Fishing Day.

(1) A license is not required on free fishing day, a Saturday in June, annually. All other laws and rules apply.

(2) A person 12 years of age or older shall purchase a fishing license before engaging in any regulated fishing activity pursuant to Section 23-19-18.

(3) A person under 12 years of age may fish without a license and take a full ~~bag~~ daily and possession limit.

R657-13-4. Fishing Contests.

~~(+) All fishing contests shall be held pursuant to R657-58 Fishing Contests and Clinics.~~

R657-13-5. Interstate Waters And Reciprocal Fishing Permits.

(1) Bear Lake

(a) The holder of a valid Utah or Idaho fishing or combination license may fish within both the Utah and Idaho boundaries of Bear Lake with one fishing pole. With the purchase of a valid Utah fishing or combination license and a Utah second pole permit, or a valid Idaho fishing or combination license and an Idaho two-pole permit, an angler may fish with two poles anywhere on Bear Lake that is open to fishing. A second pole or two-pole permit must be purchased from the state of original license purchase.

(b) Only one ~~bag~~ daily limit may be taken ~~and held in possession~~ in a single day even if licensed in both states.

(2) Reciprocal Fishing Permits

(a) The purchase of a reciprocal fishing permit allows a person to fish across state boundaries of interstate waters.

(b) Reciprocal fishing permits are offered for Lake Powell and Flaming Gorge Reservoir (See Subsections (3) and (4).)

(c) Utah residents may obtain reciprocal fishing permits by contacting the state of Arizona for Lake Powell and the state of Wyoming for Flaming Gorge.

(d) Nonresidents may obtain reciprocal fishing permits through the division's web site, from online license agents and division offices.

(e) The reciprocal fishing permit must be:

(i) used in conjunction with a valid unexpired fishing or combination license from a reciprocating state; and

(ii) signed by the holder as the holder's name appears on the valid unexpired fishing or combination license from the reciprocating state.

(f) Reciprocal fishing permits are valid for 365 days from the date of purchase.

(g) Anglers are subject to the laws and rules of the state in which they are fishing.

(h) Only one ~~bag~~ daily limit may be taken ~~and held in possession~~ in a single day even if licensed in both states.

(3) Lake Powell Reservoir

(a) Any person qualifying as an Arizona resident and having in their possession a valid resident Arizona fishing license and a Utah reciprocal fishing permit for Lake Powell can fish within the Utah boundaries of Lake Powell.

(b) Any person who is not a resident of Utah or Arizona must purchase the appropriate nonresident licenses for Utah and Arizona to fish both sides of Lake Powell.

(c) Only Utah and Arizona residents are allowed to purchase reciprocal permits to fish both sides of Lake Powell.

(4) Flaming Gorge Reservoir

Any person possessing a valid Wyoming fishing license and a Utah reciprocal fishing permit for Flaming Gorge is permitted to fish within the Utah waters of Flaming Gorge Reservoir.

R657-13-6. Angling.

(1) While angling, the angler shall be within sight (not to exceed 100 feet) of the equipment being used at all times, except setlines.

(2) Angling with more than one line is unlawful, except:

(a) when using a valid second pole permit in conjunction with an unexpired Utah ~~one day, seven day or annual~~ fishing or combination license;

(b) while fishing for crayfish without the use of fish hooks;

(c) while fishing through the ice at Flaming Gorge Reservoir. A second pole permit is not required when fishing through the ice at Flaming Gorge Reservoir, or when fishing for crayfish with lines without hooks.

(3) No artificial lure may have more than three hooks.

(4) No line may have attached to it more than three baited hooks, three artificial flies, or three artificial lures, except for a setline.

(5) When angling through the ice, the hole may not exceed 12 inches across at the widest point, except at Bear Lake, Flaming Gorge Reservoir, and Fish Lake where specific limitations apply.

R657-13-7. Fishing With More than One Pole (Second Pole Permits).

(1) A person may use a second pole to take fish on all waters open to fishing provided they have an unexpired fishing or combination license and a valid second pole permit, except as provided in Subsection (5) below.

(2)(a) A second pole permit may be obtained through the division's web site, from license agents and division offices.

(b)(i) A second pole permit is a 365 day permit valid only when used in conjunction with an unexpired Utah ~~one day, seven day or annual~~ fishing or combination license.

(ii) A second pole permit does not allow an angler to take more than one daily ~~bag or~~ limit or to possess more than one possession limit.

(3) Anglers under 12 years of age must purchase a valid fishing or combination license and second pole permit in order to use a second pole.

(4) A second pole permit shall only be used by the person to whom the second pole permit was issued.

(5) A person may use up to six lines without a second pole permit when fishing at Flaming Gorge Reservoir through the ice. When using more than two lines at Flaming Gorge Reservoir, the angler's name shall be attached to each line, pole, or tip-up, and the angler shall check only their lines.

R657-13-8. Setline Fishing.

(1) A person may use a setline to take fish on the Bear River proper downstream from the Idaho state line, including Cutler Reservoir and outlet canals; Little Bear River below Valley View Highway (SR-30); Malad River; and Utah Lake.

(2)(a) Angling with one pole is permitted while setline fishing, except as provided in Subsection (b).

(b) A person who obtains a second pole permit may fish with two poles while setline fishing.

(3) No more than one setline per angler may be used and it may not contain more than 15 hooks.

(4)(a) A setline permit may be obtained through the division's web site, from license agents and division offices.

(b) A setline permit is required in addition to ~~a~~ any valid Utah ~~one day, seven day or annual~~ fishing or combination license.

(c) A setline permit is a 365 day permit valid only when used in conjunction with ~~an~~ any unexpired Utah ~~one day, seven day or annual~~ fishing or combination license.

(5) When fishing with a setline, the angler shall be within 100 yards of the surface or bank of the water being fished.

(6) A setline shall have one end attached to a nonmoving object, not attached to a fishing pole, and shall have attached a legible tag with the name, address, and setline permit number of the angler.

(7) Anglers under 12 years of age must purchase a valid Utah one day, seven day or annual fishing or combination license and setline permit in order to use a setline.

R657-13-9. Underwater Spearfishing.

(1) ~~[Underwater spearfishing is permitted from official sunrise to official sunset only, except]~~ A person possessing a valid Utah fishing or combination license may engage in underwater spearfishing, only as provided in [Subsection (6)]this Section.

~~(2) [Use of artificial light is unlawful while engaged in underwater spearfishing, except as provided in Subsection (6).]The following waters are open to underwater spearfishing from January 1 through December 31 for all species of game fish, unless specified otherwise by individual water:~~

~~(3) Free shafting is prohibited while engaged in underwater spearfishing.]a) Big Sand Wash Reservoir (Duchesne County);~~

~~(b) Brown's Draw Reservoir (Duchesne County);~~

~~(4)c) Causey Reservoir (Weber County);];~~

~~(d) Deer Creek Reservoir (Wasatch County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;~~

~~(e) East Canyon Reservoir (Morgan County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;~~

~~(f) Echo Reservoir (Summit County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;~~

~~(g) Electric Lake (Emery County);~~

~~(h) Fish Lake (Sevier County), except underwater spearfishing for any game fish is closed from September 16 to the first Saturday in June the following year;~~

~~(i) Flaming Gorge Reservoir (Daggett County), [Jordanelle Reservoir]except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;~~

~~(j) Grantsville Reservoir (Tooele County);];~~

~~(k) Ken's Lake (San Juan County);];~~

~~(l) Lake Powell (Garfield, Kane and San Juan [West Creek Reservoir;]Counties), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;~~

~~(m) Newcastle Reservoir (Iron County), except underwater spearfishing is closed for all species of game fish other than wipers and rainbow trout;~~

~~(n) Pineview Reservoir (Weber County)[(with the exception of tiger muskie);], except underwater spearfishing is closed for:~~

~~(i) largemouth and small mouth bass from April 1 through the fourth Saturday in June; and~~

~~(ii) tiger musky year round.~~

~~(o) Porcupine Reservoir (Cache County);~~

~~(p) Recapture Reservoir (San Juan County);~~

~~(q) Red Fleet Reservoir (Uintah County)[Steinaker Reservoir;];~~

~~(r) Rockport Reservoir (Summit County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;~~

~~(s) Sand Lake (Uintah County);~~

~~(t) Smith-Moorehouse Reservoir (Summit County);~~

~~(u) Starvation Reservoir (Duchesne County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;~~

~~(v) Steinaker Reservoir (Uintah County), except underwater spearfishing for largemouth and smallmouth bass is closed from April 1 through the fourth Saturday in June;~~

~~(w) Willard Bay Reservoir (Box Elder County); and~~

~~(x) Yuba Reservoir (Juab and Sanpete [are open to taking game and nongame fish by means of underwater spearfishing from 6:00 a.m. on the first Saturday of June through November 30, except as specified in subsections 5 and 6 below. Fish Lake is open to taking game and nongame fish by means of underwater spearfishing from 6:00 a.m. on the first Saturday of June through September 15.~~

~~(5) Lake Powell is open to taking carp and striped bass[Counties].~~

~~(3) Nongame fish, excluding prohibited species listed in Section R657-13-13, may be taken by underwater spearfishing:~~

~~(a) in the waters listed in Subsection (2) and at Blue Lake (Tooele County) for tilapia only; and~~

~~(b) during the open angling season set for a given body of water.~~

~~(4) The waters listed in Subsections (2) and (3)(a) are the only waters open to underwater spearfishing for game or nongame fish, except carp may be taken by means of underwater spearfishing from [January 1 through December 31.]any water open to angling during the open angling season set for a given body of water.~~

~~(5)(a) Underwater spearfishing is permitted from official sunrise to official sunset only, except burbot may be taken by underwater spearfishing at Flaming Gorge Reservoir (Daggett County) between official sunset and official sunrise.~~

~~(6) Flaming Gorge is open to taking burbot by means of underwater spearfishing from January 1 through December 31, 24 hours each day. Artificial light is permitted while engaged in underwater spearfishing for burbot at Flaming gorge. Artificial light may not be used at other waters nor may it be used when pursuing other fish species in Flaming Gorge.[b) No other species of fish may be taken with underwater spearfishing techniques at Flaming Gorge Reservoir or any other water in the state between official sunset and official sunrise.~~

~~(6)(a) Use of artificial light is unlawful while engaged in underwater spearfishing, except artificial light may be used when underwater spearfishing for burbot at Flaming Gorge Reservoir (Daggett County).~~

~~(b) Artificial light may not be used when underwater spearfishing for fish species other than burbot at Flaming Gorge Reservoir.~~

~~(7) Free shafting is prohibited while engaged in underwater spearfishing.~~

~~(8) The [bag]daily limit and possession limit for underwater spearfishing is the same as the [bag]daily limit and possession limit applied to anglers using other techniques in the waters listed in [Subsection (4) above]Subsections (2) and (3)(a), and as identified in the annual Utah Fishing [Proclamation]Guidebook issued by the Utah Wildlife Board.~~

~~(8) Nongame fish may be taken by underwater spearfishing only in the waters listed in Subsection (4) above and as provided in Section R657-13-14.~~

~~(9) The waters listed above in subsection 4 are the only waters open to underwater spearfishing except that carp may be taken by means of underwater spearfishing from any water open to angling during the open angling season set for a given body of water.~~

]

R657-13-10. Dipnetting.

(1) Hand-held dipnets may be used to land game fish legally taken by angling. However, they may not be used as a primary method to take game fish from Utah waters except at Bear Lake where they are permitted for Bonneville Cisco.

(2) The opening of the dipnet may not exceed 18 inches.

(3) When dipnetting through the ice, the size of the hole is unrestricted.

(4) Hand held dipnets may also be used to take crayfish and nongame fish, except prohibited fish.

R657-13-11. Restrictions on Taking Fish and Crayfish.

(1) Artificial light is permitted while angling, except when underwater spearfishing. However artificial light is permitted while underwater spearfishing for burbot in Flaming Gorge or while bow fishing for carp statewide.

(2) A person may not obstruct a waterway, use a chemical, explosive, electricity, poison, crossbow, firearm, pellet gun, or archery equipment to take fish or crayfish, except as provided in Subsection R657-13-14([1)(c)2] and Section R657-13-20.

(3)(a) A person may not possess a gaff while angling, or take protected aquatic wildlife by snagging or gaffing, except[at Lake Powell where]:

(i) a gaff may be used at Lake Powell to land striped bass[. It is unlawful to possess a gaff at waters, except at Lake Powell.]; and

(ii) snagging may be used at Bear Lake to take Bonneville cisco.

(b) Except as provided in Subsection (3)(a)(ii) and Section R657-13-21, a fish hooked anywhere other than the mouth must be immediately released.

(4) Chumming is prohibited on all waters, except as provided in Section R657-13-20.

(5) The use of a float tube or a boat, with or without a motor, to take protected aquatic wildlife is permitted on many public waters. However, boaters should be aware that other agencies may have additional restrictions on the use of float tubes, boats, or boats with motors on some waters.

(6) Nongame fish and crayfish may be taken only as provided in Sections R657-13-14 and R657-13-15.

R657-13-12. Bait.

(1) Use or possession of corn, hominy, or live baitfish while fishing is unlawful.

(2) Use or possession of tiger salamanders (live or dead) while fishing is unlawful.

(3) Use or possession of any bait while fishing on waters designated artificial fly and lure only is unlawful.

(4) Use or possession of artificial baits which are commercially imbedded or covered with fish or fish parts while fishing is unlawful.

(5) Use or possession of bait in the form of fresh or frozen fish or fish parts while fishing is unlawful, except as provided below and in Subsections (7) and (8).

(a) Dead Bonneville cisco may be used as bait only in Bear Lake.

(b) Dead yellow perch may be used as bait only in: Deer Creek, Echo, Fish Lake, Gunnison, Hyrum, Johnson, Jordanelle, Mantua, Mill Meadow, Newton, Pineview, Rockport, Starvation, Utah Lake, Willard Bay and Yuba reservoirs.

(c) Dead white bass may be used as bait only in Utah Lake and the Jordan River.

(d) Dead shad, from Lake Powell, may be used as bait only in Lake Powell. Dead shad must not be removed from the Glen Canyon National Recreation Area.

(e) Dead fresh or frozen salt water species including sardines and anchovies may be used as bait in any water where bait is permitted.

(f) Dead mountain sucker, white sucker, Utah sucker, reidside shiner, speckled~~[dace, mottled sculpin, fat head minnow, Utah chub, and common carp may be used as bait in any water where bait is permitted.]~~

(6) Commercially prepared and chemically treated baitfish or their parts may be used as bait in any water where bait is permitted.

(7) The eggs of any species of fish caught in Utah, except prohibited fish, may be used in any water where bait is permitted. However, eggs may not be taken or used from fish that are being released.

(8) Use of live crayfish for bait is legal only on the water where the crayfish is captured. It is unlawful to transport live crayfish away from the water where captured.

(9) Manufactured, human-made items that may not be digestible, that are chemically treated with food stuffs, chemical fish attractants, or feeding stimulants may not be used on waters where bait is prohibited.

(10) On any water declared infested by the Wildlife Board with an aquatic invasive species, or that is subject to a closure order or control plan under R657-60, it shall be unlawful to transport any species of baitfish (live or dead) from the infested water for use as bait in any other water of the State. Baitfish are defined as those species listed in sections (5)(b), (5)(c), (5)(f) and (8).

R657-13-13. Prohibited Fish.

(1) The following species of fish are classified as prohibited and may not be taken or held in possession:

- (a) Bonytail (*Gila elegans*);
- (b) Bluehead sucker (*Catostomus discobolus*);
- (c) Colorado pikeminnow (*Ptychocheilus lucius*);
- (d) Flannelmouth sucker (*Catostomus latipinnis*);
- (e) Gizzard shad (*Dorosoma cepedianum*), except at Lake Powell;
- (f) Grass carp (*Ctenopharyngodon idella*);
- (g) Humpback chub (*Gila cypha*);
- (h) June sucker (*Chasmistes liorus*);
- (i) Least chub (*Iotichthys phlegothenis*);
- (j) Northern Leatherside chub (~~[*Snyderichthys*]~~ *Lepidomeda copei*);
- (k) Razorback sucker (*Xyrauchen texanus*);
- (l) Roundtail chub (*Gila robusta*);
- (m) ~~[*Virgin River chub* (*Gila seminuda*);~~ *Southern Leatherside chub* (*Lepidomeda aliciae*);
- (n) *Virgin River chub* (*Gila seminuda*);
- (o) *Virgin spinedace* (*Lepidomeda mollispinis*); and

(~~e~~)p) Woundfin (*Plagopterus argentissimus*).

(2) Any of these species taken while attempting to take other legal species shall be immediately released.

R657-13-14. Taking Nongame Fish.

(1)(a) ~~[Except as]As~~ provided in ~~[Subsections (b) and (e)]this Section~~, a person possessing a valid Utah fishing or combination license may take nongame fish for personal, noncommercial purposes during the open fishing season set for the given body of water.

(b) A person may not take any species of fish designated as prohibited in Section R657-13-13.

~~(1)(a) Except as provided in Subsection (2)(b), nongame fish may be taken by angling, traps, bow and arrow, liftnets, dipnets, cast nets, seine, or spear in any water of the state with an open fishing season.~~

(b) Nongame fish may not be taken in the following waters, except carp may be taken by angling, archery, spear, or underwater spearfishing:

- (i) San Juan River;
 - (ii) Colorado River;
 - (iii) Green River (from confluence with Colorado River upstream to Colorado state line in Dinosaur National Monument);
 - (iv) Green River (from Colorado state line in Brown's Park upstream to Flaming Gorge Dam, including Gorge Creek, a tributary entering the Green River at Little Hole);
 - (v) White River (Uintah County);
 - (vi) Duchesne River (from Myton to confluence with Green River);
 - (vii) Virgin River (Main stem, North, and East Forks).
 - (viii) Ash Creek;
 - (ix) Beaver Dam Wash;
 - (x) Fort Pierce Wash;
 - (xi) La Verkin Creek;
 - (xii) Santa Clara River (Pine Valley Reservoir downstream to the confluence with the Virgin River);
 - (xiii) Diamond Fork;
 - (xiv) Thistle Creek;
 - (xv) Main Canyon Creek (tributary to Wallsburg Creek);
 - (xvi) Provo River (below Deer Creek Dam);
 - (xvii) Spanish Fork River;
 - (xviii) Hobbie Creek (Utah County);~~and~~
 - (xix) Snake Valley waters (west and north of US-6 and that part of US-6 and US-50 in Millard and Juab counties);
 - (xx) Raft River (from the Idaho state line, including all tributaries);
 - (xxi) Weber River; and
 - (xxii) Yellow Creek.
- (2)c) Nongame fish, ~~[except those species listed in Section R657-13-13,]~~may be taken by~~[angling, traps, bow and arrow, liftnets, dipnets, cast nets, seine, spear or]~~underwater spearfishing in the waters and under the conditions specified in ~~[Subsection]Section R657-13-9(4)-9.~~
- (3) Seines shall not exceed 10 feet in length or width.
- (4) Cast nets must not exceed 10 feet in diameter.
- (5) ~~[Lawfully]Except as provided in Section R657-13-21,~~ lawfully taken nongame fish shall be either released or killed immediately upon removing them from the water, however, they may not be left or abandoned on the shoreline.

R657-13-15. Taking Crayfish.

(1) A person possessing a valid Utah fishing or combination license may take crayfish for personal, noncommercial purposes during the open fishing season set for the given body of water.

(2) Crayfish may be taken by hand or with a trap, pole, liftnet, dipnet, handline, or seine, provided that:

(a) game fish or their parts, or any substance unlawful for angling, is not used for bait;

(b) seines shall not exceed 10 feet in length or width;

(c) no more than five lines are used, and no more than one line may have hooks attached, - except when an angler possesses a valid second pole permit in which case two hooked lines may be used. On unhooked lines, bait is tied to the line so that the crayfish grasps the bait with its claw; and

(d) live crayfish are not transported from the body of water where taken.

R657-13-16. Possession and Transportation of Dead Fish and Crayfish.

(1)(a) At all waters except Strawberry Reservoir, Scofield Reservoir, Panguitch Lake, Jordanelle Reservoir and Lake Powell, game fish may be dressed, filleted, have heads and/or tails removed, or otherwise be physically altered after completing the act of fishing or reaching a fish cleaning station, camp, or principal means of land transportation. It is unlawful to possess fish while engaged in the act of fishing that have been dressed or filleted. This shall not apply to fish that are processed for immediate consumption or to fish held from a previous day's catch.

(b) Trout and/or salmon taken at Strawberry Reservoir, Scofield Reservoir and Panguitch Lake, and smallmouth bass taken at Jordanelle may not be filleted and the heads or tails may not be removed in the field or in transit.

(c) Fish may be filleted at any time and anglers may possess filleted fish at any time at Lake Powell.

(2) A legal limit of game fish or crayfish may accompany the holder of a valid fishing or combination license within Utah or when leaving Utah.

(3) A person may possess or transport a legal limit of game fish or crayfish for another person when accompanied by a donation letter.

(4)(a) A person may not :

(i) take more than one ~~[bag]daily limit of game fish~~ in any one day; or

(ii) possess more than one ~~[bag]daily limit of each species or species aggregate[regardless of the number of days spent fishing.], unless the additional fish are:~~

~~(A) from a previous days catch;~~

~~(B) eviscerated; and~~

~~(C) within the possession limit for each species or species aggregate.~~

~~(b) A person may possess a full possession limit of Bonneville cisco without eviscerating the fish from a previous days catch.~~

(5) A person may possess or transport dead fish on a receipt from a registered commercial fee fishing installation, a private pond owner, or a short-term fishing event. This receipt shall specify:

(a) the number and species of fish;

(b) date caught;

(c) the certificate of registration number of the installation, pond, or short-term fishing event; and

(d) the name, address, telephone number of the seller.

R657-13-17. Possession of Live Fish and Crayfish.

(1) A person may not possess or transport live protected aquatic wildlife except as provided by the Wildlife Code or the rules and proclamation of the Wildlife Board.

(2) For purposes of this rule, a person may not transport live fish or crayfish away from the water where taken.

(3) This does not preclude the use of live fish stringers, live wells, or hold type cages as part of normal angling procedures while on the same water in which the fish or crayfish are taken.

R657-13-18. Release of Tagged or Marked Fish.

Without prior authorization from the division, a person may not:

(1) tag, mark, or fin-clip fish for the purpose of offering a prize or reward as part of a contest;

(2) introduce a tagged, marked, or fin-clipped fish into the water; or

(3) tag, mark, or fin-clip a fish and return it to the water.

R657-13-19. Season Dates and ~~[Bag]Daily~~ and Possession Limits.

(1) All waters of state fish rearing and spawning facilities are closed to fishing.

(2) State waterfowl management areas are closed to fishing except as specified in the proclamation of the Wildlife Board for taking fish and crayfish.

(3) The season for taking fish and crayfish is January 1 through December 31, 24 hours each day. Exceptions are specified in the proclamation of the Wildlife Board for taking fish and crayfish.

(4)(a) ~~[Bag]Daily limits~~ and possession limits are specified in the proclamation of the Wildlife Board for taking fish and crayfish and apply statewide unless otherwise specified.

(b)(i) A person may not fish in waters that have a specific ~~[bag]daily, possession,~~ or size limit while possessing fish in violation of that limit.

(ii) Fish not meeting the size, ~~[bag]daily limit,~~ or species provisions on specified waters shall be returned to the water immediately.

(c)(i) Trout, salmon and grayling that are not immediately released and are held in possession, dead or alive, are included in the person's ~~[bag]daily limit~~ and possession limit.

(ii) Once a trout, salmon or grayling is held in or on a stringer, fish basket, livewell, or by any other device, a trout, salmon or grayling may not be released.

(5)(a) A person may not;

(i) take more than one ~~[bag]daily limit~~ in any one day ; or ~~[have in possession]~~

(ii) possess more than one ~~[bag]daily limit of each species or species aggregate [regardless of the number of days spent on fishing.] unless the additional fish are:~~

~~(A) from a previous days catch;~~

~~(B) eviscerated; and~~

(C) within the possession limit for each species or species aggregate.

(b) A person may possess a full possession limit of Bonneville cisco without eviscerating the fish from a previous days catch.

R657-13-20. Variations to General Provisions.

Variations to season dates, times, [bag]daily and possession limits, methods of take, use of a float tube or a boat for fishing, and exceptions to closed areas are specified in the proclamation of the Wildlife Board for taking fish and crayfish.

R657-13-21. Catch-and-Kill Regulations.

(1) The Wildlife Board may designate in proclamation and guidebook waters where anglers are required to kill specified aquatic animal species that are caught.

(2) A person shall immediately kill any aquatic animal caught in a water identified by the Wildlife Board in proclamation or guidebook as catch-and-kill for that species.

(a) An aquatic animal killed subject to a catch-and-kill regulation may be:

(i) retained and consumed by the angler; or

(ii) disposed of:

(A) in the water where the aquatic animal was caught;

(B) at a fish cleaning station;

(C) at the angler's place of residence; or

(D) at another location where disposal is authorized by law.

(3) A person may not release a live aquatic animal subject to a catch-and-kill regulation in the water it was caught or in any other water in the state.

KEY: fish, fishing, wildlife, wildlife law

Date of Enactment or Last Substantive Amendment: [~~January 22, 2013~~2014]

Notice of Continuation: October 1, 2012

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-19-1; 23-22-3

**Natural Resources, Wildlife Resources
R657-38
Dedicated Hunter Program**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38170

FILED: 12/10/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Wildlife Board meetings conducted for taking public input and reviewing the division's Dedicated Hunter Program.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to the above listed rule: 1) remove outdated

language; 2) simplify sentence structure and reduces redundancy; 3) reorganize rule sections; 4) clarify portions of the rule that were in conflict with other sections; 5) allow Dedicated Hunters who have completed the third year of the program to pay or provide service for incomplete service hours; 5) change a COR expiration date from December 31 to the final day of the general deer season; 6) incorporate a new definition of "youth"; 7) set the criteria for when a surrendered COR merits a reinstatement of a preference point; 8) clarify the options for a participant to receive a poaching reported reward permit; and 9) adjust the annual service hour requirement distribution.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18 and Section 23-14-19

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** These amendments can be implemented with relatively few programming changes and thus the Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

♦ **LOCAL GOVERNMENTS:** Since these amendments will impact individual participants in the dedicated hunter program and not the local governments, this should have no effect on them. This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

♦ **SMALL BUSINESSES:** This amendment clarifies the requirements needed to successfully participate in the program but does not require an increase in requirements therefore, the division determines that the amendments do not have the potential to generate a cost or savings impact to small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment clarifies the requirements needed to successfully participate in the program but does not require an increase in requirements therefore, the division determines that the amendments do not have the potential to generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that these amendments are program clarifications that will not create additional savings or costs for those who wish to participate in the program. Participation is voluntary and the rule amendments do not create a cost or savings impact to individuals who choose to participate in the dedicated hunter program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON
THIS RULE BY SUBMITTING WRITTEN COMMENTS NO
LATER THAN AT 5:00 PM ON 01/31/2014

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2014

AUTHORIZED BY: Gregory Sheehan, Director

R657. Natural Resources, Wildlife Resources.

R657-38. Dedicated Hunter Program.

R657-38-1. Purpose and Authority.

(1) Under the authority of Section 23-14-18, this rule provides the standards and requirements for qualified deer hunters to participate in the Dedicated Hunter Program by obtaining a certificate of registration.

(2) The Dedicated Hunter Program is a program that provides the opportunity for participants to:

(a) increase the opportunity for recreational general deer hunting, while the division regulates harvest; expanded hunting opportunities;

(b) increase participation in wildlife conservation opportunities to participate in projects that are beneficial to wildlife conservation and the division; and

(c) complete the wildlife conservation and ethics course to learn about education in hunter ethics; public input processes and wildlife conservation philosophies and strategies; management principles.

R657-38-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) ~~"Dedicated Hunter Program orientation course" means a course of instruction provided by the division outlining the organization, structure and requirements of the Dedicated Hunter Program.~~

(b) "Dedicated Hunter Permit" means a general buck deer permit issued to a participant in the Dedicated Hunter Program, which authorizes the participant to hunt deer during the general archery, general muzzleloader and general any weapon open seasons in the unit hunt area specified on the permit.

(e) "b) "Hunt area" means an area prescribed by the Wildlife Board where general archery, general muzzleloader and general any weapon deer hunting is open to permit holders for taking deer.

(d) "Participant" means a person who has remitted the appropriate fee and has been issued a Dedicated Hunter certificate of registration ~~for~~.

(d) "Program" means the Dedicated Hunter Program ~~;~~

(e) "Program" ~~means the Dedicated Hunter Program, a program administered by the division as provided in this rule.~~

(f) "Program harvest" means tagging a deer with using a Dedicated Hunter permit to tag a harvested deer or failing to return the a Dedicated Hunter permit with the attached unused kill tag, while enrolled in the program.

(g) "Program requirements" ~~mean the Dedicated Hunter Program orientation course as provided in Section R657-38-9, the wildlife conservation and ethics course as provided in Section R657-38-10, wildlife conservation projects as provided in Section R657-38-11, and returning an unused Dedicated Hunter permit and attached tag as provided in Subsection R657-38-13(1).~~

(h) "Wildlife Conservation and Ethics course" means a course of instruction provided by the division on hunter ethics, public input processes and wildlife conservation philosophies and strategies.

(i) "Wildlife conservation project" means a project designed by the division, or any other individual or entity and pre-approved by the division, "Wildlife conservation project" means any project that provides wildlife habitat protection or enhancement, improves hunting or fishing access, or other conservation projects or activities that benefit wildlife or directly benefits the division, wildlife or the Division's current needs and is pre-authorized by the Division.

(j) "Wildlife conservation project manager" means an employee of the division, or person approved by the division, responsible for supervising a wildlife conservation project and participating volunteers, and maintaining and reporting records of service hours to the division.

R657-38-3. [Certificate]Dedicated Hunter Certificates of Registration [Required.]

(1)(a) To participate become a participant in the program a person must apply for, obtain, and sign a Dedicated Hunter certificate of registration ~~issued by the division through the Big Game Application as prescribed in the guidebook of the Wildlife Board for taking big game]. A participant is not required to have the Dedicated Hunter certificate of registration on their person while hunting.~~

(b) [Each unit may not exceed the specified percentage of]Certificates of registration are issued by the Division through a drawing as prescribed in the guidebook of the Wildlife Board for taking big game and R657-62.

(c) Certificates of registration are valid for 3 consecutive years, except as provided by R657-38-(10), beginning on the date the big game drawing results are released and ending on the last day of the general season hunt for the 3rd year of enrollment.

(d) The number of Dedicated Hunter certificates of registration ~~for the program at any given time. The percentages shall be prescribed by the Wildlife Board in the guidebook for taking big game.]is limited to 15% of the total annual general season quota for each perspective hunt area.~~

~~(e)j~~ Certificates of registration ~~[are issued through a division]~~ remaining unissued from the Dedicated Hunter portion of the big game drawing shall be redistributed as general single-season permits for their respective hunt areas in the general buck deer drawing.

~~(d)~~ Each prospective participant must submit an online application provided by the division after completing the Dedicated Hunter Program orientation course before the division may issue the certificate of registration for the program.

~~(e)~~ A certificate of registration to participate in the program shall only be issued during the application period as prescribed in the guidebook of the Wildlife Board for taking big game.

(2) The ~~[division]~~ Division may deny ~~[issuing]~~, suspend, or revoke a Dedicated Hunter certificate of registration ~~[to a person]~~ for any of the following reasons:

(a) The drawing application ~~[is incomplete or]~~ contains false information ~~[-];~~

(b) The person, at the time of application, or during the program enrollment, is under a judicial or administrative order suspending any wildlife hunting or fishing privilege within Utah or elsewhere;

(c) The person has violated the terms of any certificate of registration issued by the ~~[division]~~ Division or an associated agreement.

~~(d)3~~ ~~[The person has ever had a Dedicated Hunter certificate of registration suspended by the division.~~

~~(3)~~ Prospective participants ~~who have been]~~ A person under any wildlife suspension may not apply for ~~[the program]~~ a certificate of registration until their suspension period has ended.

~~(4)~~ ~~[Each certificate of registration is valid for three consecutive general deer hunting seasons, except as provided in subsections (13) and (14).~~

~~(5)(a)~~ Any person who is 12 years of age or older may obtain a certificate of registration. A person 11 years of age may obtain a certificate of registration if the date of that person's 12th birthday falls in the calendar year the certificate of registration is issued. A person may not use a permit to hunt big game before their 12th birthday.

~~(b)~~ Any person who is 17 years of age or younger before the beginning date of the annual general archery deer hunt shall pay the youth participant fees.

~~(c)~~ Any person who is 18 years of age or older on or before the beginning date of the annual general archery deer hunt shall pay the adult participant fees.

~~(6)~~ ~~[A certificate of registration authorizes the participant [an opportunity to receive annually] to use a Dedicated Hunter permit to hunt deer within the area listed on the permit, during the general archery, general muzzleloader and general any legal weapon buck deer hunts. The Dedicated Hunter permit may be used during] according to the dates and [within the hunt area] boundaries established by the Wildlife Board. When available, the certificate of registration may also authorize hunting within the general archery extended area during the extended season dates.~~

~~(7)(a)~~ Except as provided in Subsections (b), R657-38-12(3)(a), and R657-38-12(6), a participant using a Dedicated Hunter permit may take two deer within three years of enrollment, and only one deer in any one year as provided in Rule R657-5.

~~(b)~~ Participants entering or re-entering the Dedicated Hunter Program shall be subject to any changes subsequently made in this rule during the three-year term of enrollment, unless a variance is authorized by the division.

~~(c)~~ The harvest of an antlerless deer using a Dedicated Hunter permit, as authorized under specific hunt choice areas during the general archery deer hunt, shall be considered a program harvest.

~~(8)~~ The certificate of registration must be signed by the participant. The certificate of registration is not valid without the required signature.

~~(9)~~ The participant and holder of the certificate of registration must have a valid Dedicated Hunter permit in possession while hunting. A participant is not required to have the Dedicated Hunter certificate of registration in possession while hunting.

~~(10)~~ The division may issue a duplicate Dedicated Hunter certificate of registration pursuant to Section 23-19-10.

~~(11)~~ Certificates of registration are not transferable and shall expire at the end of a participant's third consecutive general deer hunting season.

~~(12)(a)~~ The program requirements set forth in Sections R657-38-10, and R657-38-11 may be waived annually if the participant provides evidence of leaving the state for a minimum period of one year during the enrollment period for religious or educational purposes.

~~(b)~~ If the participant requests that the program requirements be waived in accordance with Subsection (a), and the request is granted, the participant shall not receive a Dedicated Hunter permit for the year in which the program requirements were waived.

~~(13)(a)~~ A participant who is a member of the United States Armed Forces or public health or public safety organization and who is mobilized or deployed on order in the interest of national defense or emergency may request that their enrollment in the program be suspended for the period of their mobilization or deployment.

~~(14)(a)~~ A participant who is a member of the United States Armed Forces or public health or public safety organization and who is mobilized or deployed on order in the interest of national defense or emergency may request that the requirements set forth in Sections R657-38-10, R657-38-11, be extended or satisfied as provided in Subsections (b) through (d).

~~(b)~~ The program requirement set forth in Section R657-38-10 may be extended to the second or third year of their program enrollment.

~~(i)~~ extended to the third year in the program if the participant is currently in the second year of the program; and

~~(ii)~~ waived in the third year of the program if the participant remains mobilized or deployed and is unable to reasonably meet the requirement.

~~(c)~~ The program requirement set forth in Section R657-38-11 may be considered satisfied by a participant that is prevented from completing the requirement due to the mobilization or deployment.

~~(d)~~ A participant must provide evidence of the mobilization or deployment.

~~(15) A refund for the Dedicated Hunter certificate of registration may not be issued, except as provided in Section 23-19-38.2. Any refund will be issued pro rata based on the number of hunting seasons actually participated in during the three-year enrollment period.~~

~~] (5) The participant's hunt area, issued through the drawing, shall remain the same for the duration of that program enrollment period.~~

~~(6) Participants of the program shall be subject to any changes subsequently made in this rule during the term of enrollment, unless a variance is authorized by the Division.~~

R657-38-4. [~~Dedicated Hunter Drawing~~]Applications for Certificates of Registration.

~~(1) [Applications are available through the division's Internet site.~~

~~(2) A person may not submit more than one application in the Dedicated Hunter drawing in any one year.~~

~~(3)(a) Applications must be submitted online by the date prescribed in the guidebook of the Wildlife Board for taking big game.~~

~~(b) If an error is found on an application, the applicant may be contacted for correction.~~

~~(4) Only a resident may apply for or obtain a resident certificate of registration and only a nonresident may apply for or obtain a nonresident certificate of registration.~~

~~(5) To apply for a resident certificate of registration, a person must establish residency at the time of purchase.~~

~~(6) The posting date of the drawing shall be considered the purchase date of a certificate of registration.~~

~~(7) Applicants shall be notified by email of drawing results by the date published in the guidebook of the Wildlife Board for taking big game.~~

~~(8) Group applications are accepted. Up to four applicants may apply as a group.~~

~~(9)(a) An applicant may withdraw their application for the Dedicated Hunter Program drawing by the date published in the guidebook of the Wildlife Board for taking big game.~~

~~(b) Handling fees will not be refunded.~~

~~(10) An applicant may withdraw and resubmit their application for the Dedicated Hunter Program certificate of registration drawing by the date published in the guidebook of the Wildlife Board for taking big game.~~

~~(11)(a) Effective January 1, 2012 all current Dedicated Hunter Program participants must select a general season hunting unit prior to the Big Game application period as established by the Wildlife Board in the guidebook for taking big game.~~

~~(b) Any current Dedicated Hunter Program participant who fails to select a general season hunting unit prior to the Big Game application period as established by the Wildlife Board in the guidebook for taking big game will be assigned a unit in the participants region of choice from the previous year.~~

~~(i) The division shall make every reasonable attempt to contact each current Dedicated Hunter Program participant for the purpose of selecting a general season hunting unit.~~

R657-38-5. Dedicated Hunter Application Fees.

~~The handling fees and certificate of registration fees must be paid pursuant to Rule R657-42-8(5).~~

R657-38-6. Dedicated Hunter Application Refunds.

~~(1) The handling fees are nonrefundable.~~

~~(2) Unsuccessful applicants will not be charged for a certificate of registration.]Application to obtain a Dedicated Hunter certificate of registration is pursuant to R657-62-16~~

~~(a) Applicants must meet all age requirements and proof of hunter education and license requirements pursuant to Sections 23-19-11, 23-19-22, 23-19-24, and 23-19-26.~~

~~(i) Any person who is 12 years of age or older may apply for a Dedicated Hunter certificate of registration.~~

~~(ii) A person 11 years of age may apply for or obtain a Dedicated Hunter certificate of registration if that person's 12th birthday falls in the calendar year the certificate is issued. A person may not hunt big game prior to their 12th birthday.~~

R657-38-7.5. Dedicated Hunter Preference Point System.

~~(1) [Preference points are used in the Dedicated Hunter certificate of registration drawing to ensure that applicants who are unsuccessful in the drawing will have first preference in the next year's drawing.]Dedicated Hunter Preference points are issued pursuant to R657-62-10.~~

R657-38-6. Fees.

~~(1) Any person who is 17 years of age or younger on July 31st of the application year shall pay the youth participant fees.~~

~~(2) [A preference point is awarded for:~~

~~(a) each valid unsuccessful application;~~

~~(b) each valid application when applying only for a preference point in the dedicated hunter drawing.]Any person who is 18 years of age or older on July 31st of the application year shall pay the adult participant fees.~~

~~(3)(a) A person may not apply in the drawing for both a preference point and a certificate of registration.~~

~~(b) A person may not apply for a preference point if that person is ineligible to apply for a certificate of registration.]Lifetime License holders shall pay a reduced fee as authorized by the annual fee schedule.~~

~~(4) [Preference points are forfeited if a person obtains a certificate of registration]A participant who enters the program as a Utah resident and becomes a nonresident, shall be changed to a nonresident status and may be issued a nonresident permit at no additional charge for the remainder of the three-year enrollment period.[through the drawing.]~~

~~(5)(a) Preference points are not transferable.~~

~~(b) Preference points shall only be applied to the Dedicated Hunter drawing.~~

~~(c) A person may accumulate preference points.~~

~~(6) Preference points are averaged and rounded down to the nearest whole point when two or more applicants apply together on a group application.~~

~~(7)(a) Preference points are tracked using social security numbers or division-issued customer identification numbers.~~

~~(b) The division shall retain copies of electronic applications from 2011 to the current applicable drawing for the purpose of researching preference point records.~~

~~(c) Any requests for researching an applicant's preference point records must be requested within the time frames provided in Subsection (b).~~

~~(d) Any preference points on the division's records shall not be researched beyond the time frames provided in Subsection (b).~~

~~(e) The division may eliminate any preference points earned that are obtained by fraud, deceit or misrepresentation.~~

R657-38-8. Dedicated Hunter Permits.

~~(1)(a) Participants may hunt during the general archery, general muzzleloader and general any weapon deer hunts within the hunt area and during the season dates prescribed in the guidebook of the Wildlife Board for taking big game.~~

~~(b) The division may exclude multiple season opportunities on specific deer management units due to extenuating circumstances on that specific unit.~~

~~(2)(a) Participants must designate a unit hunt choice during the Dedicated Hunter application period.~~

~~(b) The unit hunt choice shall remain in effect for the duration of the Dedicated Hunter certificate of registration.~~

~~(3)(a) Participants must notify the division of any change of mailing address in order to receive a Dedicated Hunter permit by mail.~~

~~(b) A participant who enters the program as a resident and becomes a nonresident, or claims residency outside of Utah shall be issued a nonresident permit at no additional charge for the remainder of the three-year enrollment period.~~

~~]~~ ~~(e) A participant who enters the program as a nonresident and becomes a Utah resident, or claims residency in Utah, shall be changed to a resident status and may be issued a resident permit with no reimbursement of the higher nonresident fee for the remainder of the three-year enrollment period.~~

~~(4)(a) Dedicated Hunter permits may be issued through the mail prior to the beginning of the general archery deer hunt, and only upon evidence that the participant has completed all program requirements and possesses a Utah hunting or combination license. For the purposes of meeting the requirement of 23-19-24(2) the application period for a Dedicated Hunter deer permit will be considered to be the application period for the big game permits. Any Dedicated Hunter who does not have a valid hunting license during this application period must obtain one before a Dedicated Hunter deer permit will be issued.~~

~~(b) Participants completing program requirements may obtain their Dedicated Hunter permit over the counter from any division office after the remaining general season deer permits become available to the public as listed in the guidebook of the Wildlife Board for taking big game.~~

~~(5) A Dedicated Hunter permit may not be issued to any participant who:~~

~~(a) does not complete the program requirements;~~

~~(b) violates the terms of this rule or the Dedicated Hunter certificate of registration;~~

~~(c) does not possess a current and or valid Utah hunting or combination license.~~

~~(6)(a) The division may issue a duplicate Dedicated Hunter permit pursuant to Section 23-19-10.~~

~~(b) If a participant's unused Dedicated Hunter permit and tag is destroyed, lost, or stolen a participant may complete an affidavit verifying the permit was destroyed, lost, or stolen in order to obtain a duplicate. A fee to duplicate the permit and tag may apply.~~

~~(c) A duplicate Dedicated Hunter permit shall not be issued after the closing date of the general any weapon buck deer hunt. However, a participant may complete an affidavit and submit the affidavit for program reporting purposes as required in Section R657-38-13(1).~~

~~(7)(a) A participant may surrender a Dedicated Hunter permit in accordance with Rule R657-42.~~

~~(b) A participant may not surrender a Dedicated Hunter permit once the general archery deer hunt has begun, unless the Division can verify that the permit was never in the participant's possession.~~

~~(8)(a) Lifetime license holders may participate in the program.~~

~~(b) The lifetime license holder agrees to forego any rights to receive a lifetime license buck deer permit for the general archery, general muzzleloader or general any weapon deer hunts as provided in Section 23-19-17.5.~~

~~(c) A refund or credit is not issued for the lifetime license general archery, general muzzleloader or general any weapon permit.~~

R657-38-9. Dedicated Hunter Program Orientation Course.

~~(1)(a) The division shall provide an annual Dedicated Hunter Program orientation course.~~

~~(b) Prior to applying for the program, and obtaining a certificate of registration, a prospective participant must complete the Dedicated Hunter Program orientation course.~~

~~(2) The Dedicated Hunter Program orientation course shall explain the program to give a prospective participant a reasonable understanding of the program.~~

~~(3) The Dedicated Hunter Program orientation course is available through the division's Internet site.~~

~~(4)(a) Evidence of completion of the Dedicated Hunter Program orientation course shall be provided to the prospective participant upon completion of the Dedicated Hunter Program orientation course.~~

~~(b) Certificates of registration shall not be issued without the prospective participant having completed the Dedicated Hunter Program orientation course.~~

~~(c) The division shall keep a record of all participants who complete the Dedicated Hunter Program orientation course.]~~

Refunds.

~~(1) A refund for the Dedicated Hunter certificate of registration may not be issued, except as provided in Section 23-19-38.2 and R657-42.~~

~~(2) Any eligible refund will be issued pro rata, based on the number of years in which any portion of a hunt was participated in during the enrollment period.~~

~~(3) Drawing application fees are nonrefundable.~~

[R657-38-10.]R657-38-8. Wildlife Conservation and Ethics Course[-]. Requirement.

~~(1) Prior to obtaining the first Dedicated Hunter permit [while in]of the program, a participant must complete the wildlife conservation and ethics course.~~

~~(2) The wildlife conservation and ethics course shall explain hunter ethics, public input processes, and wildlife conservation philosophies and strategies.~~

~~_____~~(3) The wildlife conservation and ethics course is available through the [~~division~~]Division's Internet site.

(4)~~3~~ The [~~division~~]Division shall keep a record of all participants who complete the wildlife conservation and ethics course.

R657-38-~~11~~. Wildlife Conservation Projects.9. Service Hour Requirement.

~~(1)~~~~Each~~a Except as provided in R657-38-14, each participant in the program shall provide a [~~total~~]minimum of 32 hours of service as a volunteer on ~~a wildlife conservation project as provided in Subsections (a) and (b), or pay the approved fee for each hour not completed as provided in Subsection (c)~~]Division approved wildlife conservation projects.

~~(a)~~ A participant must provide no fewer than eight hours of service before obtaining the first Dedicated Hunter Permit.

~~(b)~~ A participant must provide an additional sixteen hours of service prior to receiving the second Dedicated Hunter Permit.

~~(c)~~ A participant must provide the remaining balance of hours of service prior to November 1 of the third year in the program.

~~(d)~~ If a participant fails to complete all third year required service hours by November 1 after having been issued permits in years one and two, the value of the final hours must be paid in full prior to applying in any division drawings.~~i~~ A participant may obtain a permit in the 1st year of the program without having provided service hours.

~~(i)~~ A participant must have completed a minimum of 16 service hours prior to receiving a Dedicated Hunter permit in the 2nd year of the program.

~~(iii)~~ A participant must have completed a minimum of 16 additional service hours prior to receiving a Dedicated Hunter permit in the 3rd year of the program.

~~(b)~~ If the participant fails to have the minimum of 32 hours completed at the expiration of the 3rd year, the participant will be ineligible to apply for or obtain any permits until the remaining hours have been paid for or completed.

~~(i)~~ After a certificate of registration has expired, incomplete service hours may be completed through Division approved wildlife conservation projects or by payment at the hour buyout rate.

~~(e)~~c Residents may not purchase more than 24 of the 32 total required service hours. Nonresidents may purchase all of the 32 total required service hours.

~~(f)~~ Goods or services may be provided to the division in lieu of hours of service.

~~(d)~~ If a participant fails to fulfill the wildlife conservation project requirements in any year of participation, the participant shall not be issued a Dedicated Hunter permit for that year.

(2) Wildlife conservation projects may be designed by the Division, or any other individual or entity, but must be pre-approved by the Division.

~~(g)~~a Goods or services provided to the [~~division~~]Division for wildlife conservation projects by a participant may be, at the discretion of the [~~division~~]Division, substituted for service hours based upon current market values for the goods or services, and using the approved hourly service buyout rate when applying the credit.

~~_____~~(2) Wildlife conservation projects shall be designed by the division, or any other individual or entity and shall be pre-approved by the division.

~~(3)(a)~~ Wildlife conservation projects may occur anytime during the year as determined by the division.]

~~(i)~~ Goods or material donations that are specifically requested and accepted by the Division may be considered as service project hours.

~~(b)~~ The [~~division~~]Division shall publicize the dates, times, locations and description of approved wildlife conservation projects and activities on the [~~division~~]Division's Internet site.

~~(4)(a)~~ Service hours completed in any given year may be carried over to the following years, however excess service hours shall not be carried over to any year outside of the three-year enrollment period.

~~(b)~~ Dedicated Hunter permits issued to participants within three weeks prior to the opening date of the general archery deer hunt annually, shall be issued over the counter at division offices.

~~(5)~~ A participant may request a receipt from the wildlife conservation project manager showing service hours worked on the wildlife conservation project.

~~(6)(a)~~ If a participant fails to fulfill the wildlife conservation project requirement in any year of participation, as required under Subsection (4), the participant shall not be issued a Dedicated Hunter permit for that year.

~~(3)~~ Service hours must be completed within the enrollment period.

~~(a)~~ Service hours exceeding the 32 hour minimum shall not be applicable beyond the enrollment period and shall not be applied to subsequent certificate of registrations.

(4) Participants are required to perform their own service hours.

~~(a)~~ Service hours are not transferrable to other participants or certificates of registration.

R657-38-10. Service Hour Exceptions and Program Extension.

(1) The program service hour requirements may be waived on an annual basis if:

~~(a)~~ The participant provides evidence of leaving the state for a minimum period of one year during the enrollment period for religious or educational purposes.

~~(i)~~ If the participant requests that the program service hour requirements be waived, and the request is granted, the participant shall not receive a Dedicated Hunter permit for the year in which the program requirements were waived

~~(b)~~ The participant is a member of the United States Armed Forces or public health or public safety organization and is mobilized or deployed on order in the interest of national defense or emergency

~~(2)~~ A person who is a member of the United States Armed Forces or public safety organization that is mobilized or deployed may request:

~~(a)~~ That the remainder of their program enrollment period be postponed until return from their period of mobilization or deployment;

~~(b)~~ [The participant may obtain a Dedicated Hunter Permit for subsequent years upon completion of the wildlife

~~conservation project program requirements due or payment of the fee in lieu thereof.] That the program requirements be postponed into a subsequent year of the enrollment~~

~~(7) The Volunteer Service Program Coordinator shall keep a record of all participants who attend wildlife conservation projects and the number of service hours worked.]c) That the program service hour requirements be waived if the participant is prevented from completing the requirements due to the mobilization or deployment.~~

~~(A) The participant must provide evidence of the mobilization or deployment period.~~

~~(B) The Division shall determine a pro rata schedule in which the service hour requirements waived correlate with the term length of the deployment or mobilization.~~

R657-38-11. Allowable Harvest and Permit Return Requirements.

~~(1)(a) Except as provided in section R657-38-12, a program participant may take up to 2 deer within the enrollment period and only 1 deer may be harvested in a single year.~~

~~(b) The harvest of an antlerless deer using a Dedicated Hunter permit, when permissible in the extended archery areas and seasons established in the big game guidebook, shall be considered a program harvest.~~

~~(2) Upon issue of a Dedicated Hunter permit, the participant is credited with a program harvest.~~

~~(a) 2 program harvests are allowed within the enrollment~~

~~(b) If program harvests are accrued during the 1st year and 2nd year of the enrollment, a permit shall not be issued for the 3rd year.~~

~~(c) In order to remove a program harvest credit, the participant:~~

~~(i) must not have harvested a deer with the Dedicated Hunter permit, and~~

~~(ii) must return the permit and attached tag, or a qualifying affidavit for duplication as proof of non-harvest to a Division office. A handling fee may be assessed for processing an affidavit.~~

R657-38-12. Dedicated Hunter Permits.

~~(1) Pursuant to Sections 23-19-24 and 23-19-26 person must have a valid Utah hunting or combination license to be issued a big game permit.~~

~~(2) The participant must have a valid Dedicated Hunter permit in possession while hunting.~~

~~(3) Upon completion of the minimum annual requirements, a Dedicated Hunter permit may be issued. The method and dates in which the Division issues and distributes Dedicated Hunter permits shall be published on the Division's website or in the guidebook of the Wildlife Board for taking big game.~~

~~(4) The Division may exclude multiple season opportunities on specific management units due to extenuating circumstances on a portion or all of a hunt area.~~

~~(5)(a) The Division may issue a duplicate Dedicated Hunter permit pursuant to Section 23-19-10.~~

~~(b) If a participant's unused Dedicated Hunter permit and tag is destroyed, lost, or stolen prior to, or during the hunting season~~

~~in which the permit is valid, a participant may obtain a duplicate. A handling fee may be assessed for the duplication.~~

~~(c) A duplicate Dedicated Hunter permit shall not be issued after the closing date of the general buck deer season.~~

~~(6)(a) A participant may surrender a Dedicated Hunter permit in accordance with Rule R657-42.~~

~~(b) A participant may not surrender a Dedicated Hunter permit once the general archery deer hunt has begun, unless the Division can verify that the permit was never in the participant's possession.~~

~~(7)(a) Lifetime license holders may participate in the program.~~

~~(b) The Lifetime license holder shall apply for a certificate of registration in the same manner as all other prospective participants.~~

~~(c) Upon joining and for the duration of enrollment in the program, the lifetime license holder agrees to temporarily forego any rights to receive a lifetime license buck deer permit as provided in Section 23-19-17.5.~~

~~(d) A refund or credit is not issued for a forgone lifetime license permit.~~

R657-38-13. Obtaining Other Permits.

~~(1) Participants may not apply for or obtain any general season buck deer permit, including general landowner buck deer permits, or respective preference points issued by the [division]Division through the big game drawing, license agents, over-the-counter sales, or the [Internet]internet during [the three-year period of]an enrollment period in the program.~~

~~(a) Any general season deer permit obtained [in addition to the Dedicated Hunter permit becomes]is invalid and must be surrendered prior to the beginning date of [the general archery deer hunt]that permit. A refund may not be issued pursuant to Section 23-19-[38]3.~~

~~(2)(a) Participants may [not]apply for or obtain [general landowner buck deer permits as provided under Rule R657-43-]a limited entry season buck deer permit, including CWMU, limited entry landowner, conservation, convention, and poaching rewards permits.~~

~~(3)(a) Participants may apply for or obtain any other non general season buck deer permit as provided in Rule R657-5 and the guidebook of the Wildlife Board for taking big game.~~

~~(i) [harvest of a]The limited entry buck deer [with a permit obtained pursuant to Subsection (a) shall not be considered a program harvest.]permit may be obtained without the completion of the annual program requirements, but does not exempt the participant from fulfilling the minimum requirements of the entire enrollment.~~

~~(ii) Obtaining a limited entry buck deer permit during the enrollment shall not extend the enrollment period, but shall take the place of one of the 3 possible permit years.~~

~~(iii) participants are not required to complete program requirements prior to obtaining a permit pursuant to Subsection (a)-]iii) Harvest with a limited entry buck deer permit shall not be counted as a program harvest.~~

~~(b) If the participant obtains [any other]a limited entry buck deer permit[,] and has been issued a Dedicated Hunter permit, that permit or the Dedicated Hunter permit [becomes invalid and the~~

participant must surrender the Dedicated Hunter permit prior to the opening day of the general archery deer hunt. ~~It must be surrendered as permissible by R657-38-11 and R657-42.~~ A refund may not be issued pursuant to Section 23-19-38.

~~(e) If the~~ A participant who obtains ~~any other~~ a limited entry buck deer permit ~~the participant may only use the that permit only~~ in the prescribed area ~~during the and season dates~~ listed on the permit. Dedicated Hunter privileges are not transferred to that permit.

~~(d) Participants who obtain a cooperative wildlife management unit deer permit may hunt only within those areas identified on the permit and only during the dates determined by the cooperative wildlife management unit landowner or operator.~~

~~(4) Participants must have a valid permit in their possession while hunting.~~

~~(5) Obtaining any other buck deer permit does not authorize a participant to take an additional deer.~~

~~(6)(a) Participants may apply for or obtain antlerless deer permits as provided in Rule R657-5 and the guidebook of the Wildlife Board for taking big game.~~

~~(b) Antlerless permits do not count against the number of permits issued pursuant to this program.~~

~~(c) Harvest of an antlerless deer as provided in the guidebook of the Wildlife Board for taking big game shall not be considered a program harvest.~~

R657-38-13. Reporting Requirements.

~~(1)(a) A participant must return the unused Dedicated Hunter permit and attached tag, or an affidavit as provided in Section R657-38-8(6)(e), to a division office by March 15 annually.~~

~~(b) The division shall credit a program harvest to any participant who fails to return the unused Dedicated Hunter permit and attached tag, or an affidavit as provided in Section R657-38-8(6)(e):~~ ii) The limited entry buck deer permit may not be obtained if the Dedicated Hunter permit has been in possession of the participant during any open portion of the general buck deer season.

~~(i) An unused Dedicated Hunter permit and attached tag, or an affidavit as provided in Subsection R657-38-8(6)(e) will be accepted and the credited program harvest removed.~~ 3)(a) Participants may apply for or obtain antlerless deer permits as provided in Rule R657-5 and the guidebook of the Wildlife Board for taking big game.

~~(ii) A participant who returns an unused Dedicated Hunter permit after March 15, and who is credited with a second program harvest, is only eligible to obtain a Dedicated Hunter permit for an available unit if permits remain after the big game drawing and must obtain the Dedicated Hunter permit over the counter at a division office.~~

~~(iii) If there are no permits remaining after the big game drawing, additional Dedicated Hunter permits shall not be issued.~~

~~(2)(a) The division may contact participants to gather annual harvest information and hunting activity information.~~

~~(b) Participants are expected to provide harvest information and hunting activity information if contacted by the division.~~

~~(b) Except as provided in R657-38-10, harvest of an antlerless deer with an antlerless deer permit shall not be considered a program harvest.~~

~~(b) Except as provided in R657-38-10, harvest of an antlerless deer with an antlerless deer permit shall not be considered a program harvest.~~

~~(b) Except as provided in R657-38-10, harvest of an antlerless deer with an antlerless deer permit shall not be considered a program harvest.~~

~~(b) Except as provided in R657-38-10, harvest of an antlerless deer with an antlerless deer permit shall not be considered a program harvest.~~

R657-38-14. Certificate of Registration Surrender.

~~(1) A participant who has obtained may surrender a Dedicated Hunter certificate of registration may surrender the certificate of registration to a division office pursuant to R657-42-4 provided the participant does not have two program harvests and the participant has not been issued a permit in years one and two. has not been issued 2 Dedicated Hunter permits in which hunting may have occurred.~~

~~(a) if a participant has been issued the 1st permit, the participant must have completed a minimum of 10 service hours prior to an allowable surrender.~~

~~(i) if the participant surrendering is physically unable to complete the minimum of 10 service hours due to injury or illness, the Division may authorize another person to fulfill the requirement in the participant's behalf.~~

~~(b) a participant may not surrender a certificate of registration if the participant has met the program harvest limit.~~

~~(2) The [division] Division may not issue a refund, except as provided in Section 23-19-38 and [Section R657-38-3(15)]. R657-42 and R657-38-7.~~

~~(3) If a Dedicated Hunter permit has been issued in which hunting may have occurred, the participant shall not be eligible for preference points to be reinstated upon surrender of the certificate of registration.~~

R657-38-15. Certificate of Registration Suspension.

~~(1) The [division] Division may suspend a Dedicated Hunter certificate of registration pursuant to Section 23-19-9 and R657-26.~~

~~(2) A certificate of registration may also be suspended if the participant fraudulently:~~

~~(a) fraudulently submits a time sheet for service hours; or~~
~~(b) fraudulently completes a wildlife conservation and ethics course any of the program requirements.~~

~~(3) A certificate of registration may be suspended if the participant is under a judicial or administrative c) is under suspension [order suspending of any wildlife] hunting or fishing [privilege within Utah or elsewhere.~~

~~(4) A certificate of registration is invalid if the participant's big game hunting privileges are suspended in any jurisdiction during the participant's enrollment in the program.~~

~~(5) A Dedicated Hunter permit is invalid if a participant's certificate of registration is suspended.~~

~~(4) The program enrollment period shall not be extended in correlation with any suspension.~~

KEY: wildlife, hunting, recreation, wildlife conservation

Date of Enactment or Last Substantive Amendment: [January 10, 2012] 2014

Notice of Continuation: November 1, 2010

Authorizing, and Implemented or Interpreted Law: 23-14-18

Natural Resources, Wildlife Resources **R657-41** Conservation and Sportsman Permits

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38171

FILED: 12/10/2013

RULE ANALYSIS

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

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to the above listed rule establish the Central Mountain/Nebo/Wasatch West sheep unit is open to the Sportsmen permit holder on even number years and open to the Statewide Conservation permit holder on odd number years.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18 and Section 23-14-19

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This amendment clarifies the open unit for the Sportsmen and Statewide Conservation permit holder for the Central Mountain/Nebo/Wasatch West sheep unit. DWR determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** This amendment clarifies the open unit for the Sportsmen and Statewide Conservation permit holder for the Central Mountain/Nebo/Wasatch West sheep unit. This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** This amendment clarifies the open unit for the Sportsmen and Statewide Conservation permit holder for the Central Mountain/Nebo/Wasatch West sheep unit. Therefore, the amendments do not have the potential to generate a cost or savings impact to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment clarifies the open unit for the Sportsmen and Statewide Conservation permit holder for the Central Mountain/Nebo/Wasatch West sheep unit. Therefore, the amendments do not have the potential to generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment clarifies the open unit for the Sportsmen and Statewide Conservation permit holder for the Central Mountain/Nebo/Wasatch West sheep unit. DWR determines that these amendments will not create additional costs for residents and nonresidents wishing to hunt in Utah.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2014

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2014

AUTHORIZED BY: Gregory Sheehan, Director

R657. Natural Resources, Wildlife Resources.**R657-41. Conservation and Sportsman Permits.****R657-41-1. Purpose and Authority.**

(1) Under the authority of Section 23-14-18 and 23-14-19, this rule provides the standards and procedures for issuing:

(a) conservation permits to conservation organizations for sale at an auction, or for use as an aid to wildlife related fund raising activities; and

(b) sportsman permits.

(2) The division and conservation organizations shall use all revenue derived from conservation permits under Subsections R657-41-9(4) and R657-41-9(5)(b) for the benefit of the species for which the permit is issued, unless the division and conservation organization mutually agree in writing that there is a higher priority use for other species of protected wildlife.

R657-41-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Area Conservation Permit" means a permit issued for a specific unit or hunt area for a conservation permit species, and may include an extended season, or legal weapon choice, or both, beyond the season except area turkey permits are valid during any season option and are valid in any open area during general season hunt.

(i) Area Conservation permits issued for limited entry units are not valid on cooperative wildlife management units.

(b) "Conservation Organization" means a nonprofit chartered institution, foundation, or association founded for the purpose of promoting wildlife conservation and has established tax exempt status under Internal Revenue Code, Section 501C-3 as amended.

(c) "Conservation Permit" means any harvest permit authorized by the Wildlife Board and issued by the division for purposes identified in Section R657-41-1.

(d) "Conservation Permit Species" means the species for which conservation permits may be issued and includes deer, elk, pronghorn, moose, bison, Rocky Mountain goat, Rocky Mountain bighorn sheep, desert bighorn sheep, wild turkey, cougar, and black bear.

(e) "Multi-Year Conservation Permit" means a conservation permit awarded to an eligible conservation organization pursuant to R657-41-7 for three consecutive years to sell, market or otherwise use as an aid in wildlife related fund raising activities.

(f) "Retained Revenue" means 60% of the revenue raised by a conservation organizations from the sale of conservation permits that the organization retains for eligible projects, excluding interest earned thereon.

(g) "Special Antelope Island State Park Conservation Permit" means a permit authorized by the Wildlife Board to hunt bighorn sheep or mule deer on Antelope Island State Park.

(h) "Sportsman Permit" means a permit which allows a permittee to hunt during the applicable season dates specified in Subsection (j), and which is authorized by the Wildlife Board and issued by the division in a general drawing, requiring all applicants to pay an application fee and the successful applicant the cost of the permit.

(i) "Single Year Conservation Permit" means a conservation permit awarded to an eligible conservation organization pursuant to R657-41-6 for one year to sell, market or otherwise use as an aid in wildlife related fund raising activities.

(j) "Statewide Conservation Permit" means a permit issued for a conservation permit species that allows a permittee to hunt:

(i) big game species on any open unit with archery equipment during the general archery season published in the big game proclamation for the unit beginning before September 1, and with any weapon from September 1 through December 31, except pronghorn and moose from September 1 through November 15 and deer and elk from September 1 through January 15;

(ii) two turkeys on any open unit from April 1 through May 31;

(iii) bear on any open unit during the season authorized by the Wildlife Board for that unit;

(iv) cougar on any open unit during the season authorized by the Wildlife Board for that unit and during the season dates authorized by the Wildlife Board on any harvest objective unit that has been closed by meeting its objective; ~~and~~

(v) Antelope Island is not an open unit for hunting any species of wildlife authorized by a conservation or sportsman permit, except for the Special Antelope Island State Park Conservation Permit; and

(vi) Central Mountain/Nebo/Wasatch West sheep unit is open to the Sportsmen permit holder on even number years and open to the Statewide Conservation permit holder on odd number years.

KEY: wildlife, wildlife permits, sportsmen, conservation permits

Date of enactment or last Substantive Change: [~~August 21, 2012~~2014

Notice of Continuation: November 1, 2010

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19

Natural Resources, Wildlife Resources R657-67

Utah Hunter Mentoring Program

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 38172

FILED: 12/10/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This purpose of this rule is to establish a hunting mentor program that will increase hunting opportunities for Utah families and provide the procedures under which a minor child may share the permit of another to take big game, including all big game general season permits, big game limited entry permits, once-in-a-lifetime permits, and all antlerless big game permits.

SUMMARY OF THE RULE OR CHANGE: This rule sets the criteria for which the Utah Hunter Mentoring program will be established and operated.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18 and Section 23-14-19 and Section 23-14-3

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This new rule outlines the criteria for the Utah Hunter Mentoring program and establishes the criteria for which it will be administered under. The Division of Wildlife Resources (DWR) determines that these amendments will not create any cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** This new rule outlines the criteria for the Utah Hunter Mentoring program and establishes the criteria for which it will be administered under. Local governments will not be directly or indirectly impacted because the rule does not create a situation requiring services from local governments.

♦ **SMALL BUSINESSES:** Since this new rule outlines the criteria for the Utah Hunter Mentoring program and establishes the criteria for which it will be administered under and does not incur an additional cost to participate, this filing does not have the potential to create a direct cost or savings impact to small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Since this new rule outlines the criteria for the Utah Hunter Mentoring program and establishes the criteria for which it will be administered under and does not incur an additional cost to participate, this filing does not have the potential to create a direct cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that this new rule will not create a cost or savings impact to individuals in Utah wishing to participate in the Utah Hunter Mentoring program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2014

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2014

AUTHORIZED BY: Gregory Sheehan, Director

R657. Natural Resources, Wildlife Resources.

R657-67. Utah Hunter Mentoring Program.

R657-67-1. Purpose and Authority.

Under the authority of Utah Code Annotated Sections 23-14-1, 23-14-3, 23-14-18, 23-14-19, and 23-19-1, this rule creates a hunting mentor program that will increase hunting opportunities for Utah families and provides the procedures under which a minor child may share the permit of another to take big game, including all big game general season permits, big game limited entry permits, once-in-a-lifetime permits, and all antlerless big game permits.

R657-67-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2 and this Subsection.

(2) "Hunting Mentor" means a Resident or Nonresident individual possessing a valid permit issued by the Division to take a big game animal in Utah and who is 21 years of age or older when the big game animal is taken.

(3) "Qualifying Minor" means a Utah Resident who is under 18 when engaged in a hunting related activity, and

(i) is the child, stepchild, grandchild, or legal ward of the Hunting Mentor; or

(ii) is suffering from a life threatening medical condition.

(4) "Wildlife document" means a big game permit or Division-issued authorization to share a big game permit.

R657-67-3. Requirements for Sharing Permits.

(1) A Hunting Mentor may lawfully share a permit with a Qualifying Minor, and a Qualifying Minor may lawfully take big game authorized by the Hunting Mentor's permit, if the following conditions are satisfied:

(a) The Qualifying Minor is at least 12 years of age when hunting;

(b) The Qualifying Minor has successfully completed a Hunter's Education Program recognized by the Division and possesses a Utah Hunter's Education number;

(c) The Hunting Mentor receives prior written approval by the Division authorizing the sharing of the permit;

(d) The Hunting Mentor receives no form of compensation or remuneration for sharing the permit with the Qualifying Minor;

(e) The Hunting Mentor accompanies the Qualifying Minor while hunting at a distance where the Hunting Mentor can communicate in person with the Qualifying Minor by voice or hand signals;

(f) The Hunting Mentor provides advice, assistance, and mentoring on sportsman ethics, techniques, and safety to the Qualifying Minor; and

(g) Both the Hunting Mentor and the Qualifying Minor otherwise comply with all laws, rules, and regulations governing the taking of big game as authorized by the permit.

(2) A Qualifying Minor does not need to possess a valid hunting or combination license to participate in the mentor program.

(3) A Qualifying Minor may not simultaneously possess a permit for an antlered big game animal and share a permit for an antlered big game animal of the same species.

(4) A Qualifying Minor may not simultaneously share the permits of two or more Hunting Mentors if those permits are for the same antlered big game species.

(5) A Hunting Mentor may only share their permit with one Qualifying Minor at a time.

R657-67-4. Administrative Process for Sharing Permits.

(1) The Hunting Mentor shall submit a complete application for participation in the mentor program at least 10 business days before the requested effective date.

(2) A complete application for the mentor program includes the following:

- (a) A handling fee as established by the Utah Legislature;
 - (b) The Permit Number that is to be shared;
 - (c) A physically identifying description of the Qualifying Minor;
 - (d) The Qualifying Minor's hunter education number;
 - (e) Written certification(s) of the following:
 - (i) That the Qualifying Minor is the child, stepchild, grandchild, or legal ward of the Hunting Mentor; or
 - (ii) That the Qualifying Minor has a life threatening medical condition; and the Hunting Mentor must also certify that they have received written authorization from the Qualifying Minor's parent or legal guardian approving their participation in the hunting activity; and
 - (f) any wildlife document(s) that must be surrendered in order to qualify for the Hunter Mentoring Program.
- (3) If a Qualifying Minor must surrender a wildlife document in order to qualify for the Mentor Program, that surrender must be done prior to or at the time of their application to the Utah Hunter Mentoring Program as described in R657-67-6.
- (4) If a Hunting Mentor wishes to change the Qualifying Minor with whom they share their permit, they must:
- (a) Surrender the authorization issued to the Qualifying Minor by the Division;
 - (b) Reapply with the Division to have a new Qualifying Minor participate in the mentor program in the same manner as described in this Section.

R657-67-5. Sharing the Permit in the Field.

- (1) While in the field, the Hunting Mentor must possess the following:
- (a) All written certifications submitted to the Division for the Qualifying Minor's participation in the mentor program;
 - (b) If the Hunting Mentor is not the Qualifying Minor's parent or legal guardian, the Hunting Mentor must also certify that they have received written authorization from the Qualifying Minor's parent or legal guardian approving their participation in the hunting activity; and
 - (c) The authorization issued by the Division allowing the Qualifying Minor to share in the use of the Hunting Mentor's permit;
- (2) Both the Qualifying Minor and the Hunting Mentor may carry a legal weapon in the field if they have satisfied the requirements to participate in the Mentoring Program.

(3) Big game taken by a Qualifying Minor shall be tagged with the Hunting Mentor's permit in the same manner as if the Hunting Mentor was the individual taking the animal.

(4) Only one big game animal may be taken under a shared permit, and the issuance of written authorization to share the permit does not confer additional rights to take big game.

R657-67-6. Variances, Surrenders, Refunds, Special Accommodations, and Administrative Details.

- (1) The surrender of a wildlife document shall generally be in accordance with R657-42-4.
- (2) Notwithstanding R657-42-4, a Qualifying Minor may surrender a wildlife document in their possession as part of their application to participate in the Hunter Mentoring Program, consistent with the following:
- (a) the timeframe for a Qualifying Minor to surrender a permit is defined in this Section;
 - (b) A Qualifying Minor may surrender a wildlife document obtained as part of a group application and have their bonus points or preference points reinstated and waiting period waived without requiring all group members to also surrender their permits; and
 - (c) A Qualifying Minor who wishes to surrender a wildlife document after the opening day of that hunt may only do so if:
 - (i) they did not hunt under the authorization of that wildlife document; and
 - (ii) their legal guardian submits a signed affidavit certifying that the Qualifying Minor did not hunt under that wildlife document.
 - (4) All variances, refunds, and accommodations for people with disabilities shall be based on the type of permit that is shared and the individual using the wildlife document.
 - (5) All bonus points, reference points, and waiting periods shall be assessed to the Hunting Mentor.

KEY: wildlife, game laws, hunter education

Date of Enactment or Last Substantive Amendment: 2014

Authorization, and Implementing or Interpreted Law: 23-14-1; 23-14-3; 23-14-18; 23-14-19; 23-19-1

End of the Notices of Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text ([example]). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (.) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Division of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

Administrative Services, Finance **R25-7**

Travel-Related Reimbursements for State Employees

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 38174

FILED: 12/12/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Because the IRS announced a rate decrease in per diem rate for private vehicle use from 56.5 cents per mile to 56 cents per mile, the Division has determined that the reimbursement rate for private vehicles should decrease to 56 cents per mile to avoid exceeding federal mileage reimbursement rates.

SUMMARY OF THE RULE OR CHANGE: The rule decreases reimbursement rate for mileage on private vehicles. (DAR NOTE: A corresponding proposed amendment is under DAR No. 38175 in this issue, January 1, 2014, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63A-3-106 and Section 63A-3-107

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

JUSTIFICATION: Exceeding the federal mileage reimbursement rate would result in violating federal IRS Laws, rules, and regulations.

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There will potentially be a decrease in cost to the state as mileage reimbursements are decreasing. However, the Division cannot determine exactly what the decrease will be because it is impossible to anticipate how much travel state employees will do.

◆ **LOCAL GOVERNMENTS:** There will not be costs to local governments because the rule only governs reimbursements by the state to individuals traveling on state business.

◆ **SMALL BUSINESSES:** Because this change deals only with reimbursement rates for mileage for state employees, small businesses are not affected.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Individuals eligible for reimbursements will see an decrease in their mileage reimbursement amounts for travel in private vehicles.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the amendment only changes mileage reimbursement rates and does not require any new action on the part of persons applying for reimbursements, there are not compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed these changes with the Division of Finance Director and believe these changes are warranted. Individuals may see a slight decrease in reimbursement amounts. However, the division cannot determine exactly what the decrease will be as that depends on the amount of travel by individuals eligible for mileage reimbursement.

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

EFFECTIVE: 01/01/2014

AUTHORIZED BY: John Reidhead, Director

R25. Administrative Services, Finance.
R25-7. Travel-Related Reimbursements for State Employees.
R25-7-1. Purpose.

The purpose of this rule is to establish procedures to be followed by departments to pay travel-related reimbursements to state employees.

R25-7-2. Authority and Exemptions.
This rule is established pursuant to:
(1) Section 63A-3-107, which authorizes the Division of Finance to make rules governing in-state and out-of-state travel expenses; and
(2) Section 63A-3-106, which authorizes the Division of Finance to make rules governing meeting per diem and travel expenses for board members attending official meetings.

R25-7-3. Definitions.
(1) "Agency" means any department, division, commission, council, board, bureau, committee, office, or other administrative subunit of state government.
(2) "Board" means a board, commission, council, committee, task force, or similar body established to perform a governmental function.
(3) "Department" means all executive departments of state government.

(4) "Finance" means the Division of Finance.
(5) "Home-Base" means the location the employee leaves from and/or returns to.
(6) "Per diem" means an allowance paid daily.
(7) "Policy" means the policies and procedures of the Division of Finance, as published in the "Accounting Policies and Procedures."
(8) "Rate" means an amount of money.
(9) "Reimbursement" means money paid to compensate an employee for money spent.
(10) "State employee" means any person who is paid on the state payroll system.

R25-7-4. Eligible Expenses.
(1) Reimbursements are intended to cover all normal areas of expense.
(2) Requests for reimbursement must be accompanied by original receipts for all expenses except those for which flat allowance amounts are established.

R25-7-5. Approvals.
(1) For insurance purposes, all state business travel, whether reimbursed by the state or not, must have prior approval by an appropriate authority. This also includes non-state employees where the state is paying for the travel expenses.
(2) Both in-state and out-of-state travel must be approved by the Executive Director or designee. The approval of in-state travel reimbursement forms may be considered as documentation of prior approval for in-state travel. Prior approval for out-of-state travel should be documented on form FI5 - "Request for Out-of-State Travel Authorization".
(3) Exceptions to the prior approval for out-of-state travel must be justified in the comments section of the Request for Out-of-State Travel Authorization, form FI 5, or on an attachment, and must be approved by the Department Director or the designee.
(4) The Department Director, the Executive Director, or the designee must approve all travel to out-of-state functions where more than two employees from the same department are attending the same function at the same time.

R25-7-6. Reimbursement for Meals.
(1) State employees who travel on state business may be eligible for a meal reimbursement.
(2) The reimbursement will include tax, tips, and other expenses associated with the meal.
(3) Allowances for in-state travel differ from those for out-of-state travel.
(a) The daily travel meal allowance for in-state travel is \$39.00 and is computed according to the rates listed in the following table.
.....
(b) The daily travel meal allowance for out-of-state travel is \$46.00 and is computed according to the rates listed in the following table.
.....

(4) When traveling to premium cities (New York, Los Angeles, Chicago, San Francisco, Washington DC, Boston, San Diego, Baltimore, and Arlington), the traveler may choose to accept the per diem rate for out-of-state travel or to be reimbursed at the actual meal cost, with original receipts, up to \$62 per day.

(a) The traveler will qualify for premium rates on the day the travel begins and/or the day the travel ends only if the trip is of sufficient duration to qualify for all meals on that day.

(b) Complimentary meals of a hotel, motel and/or association and meals included in registration costs are deducted from the \$62 premium allowance as follows:

(i) If breakfast is provided deduct \$14, leaving a premium allowance for lunch and dinner of actual up to \$48.

(ii) If lunch is provided deduct \$19, leaving a premium allowance for breakfast and dinner of actual up to \$43.

(iii) If dinner is provided deduct \$29, leaving a premium allowance for breakfast and lunch of actual up to \$33.

(c) The traveler must use the same method of reimbursement for an entire day.

(d) Actual meal cost includes tips.

(e) Alcoholic beverages are not reimbursable.

(5) When traveling in foreign countries, the traveler may choose to accept the per diem rate for out-of-state travel or to be reimbursed the actual meal cost, with original receipts, not to exceed the United States Department of State Meal and Incidental Expenses (M and IE) rate for their location.

(a) The traveler may combine the reimbursement methods during a trip; however, they must use the same method of reimbursement for an entire day.

(b) Actual meal cost includes tips.

(c) Alcoholic beverages are not reimbursable.

(6) The meal reimbursement calculation is comprised of three parts:

(a) The day the travel begins. The traveler's entitlement is determined by the time of day the traveler leaves their home base (the location the employee leaves from and/or returns to), as illustrated in the following table.

.....

(b) The days at the location.

(i) Complimentary meals of a hotel, motel, and/or association and meals included in the registration cost are deducted from the total daily meal allowance.

(ii) Meals provided on airlines will not reduce the meal allowance.

(c) The day the travel ends. The meal reimbursement the traveler is entitled to is determined by the time of day the traveler returns to their home base, as illustrated in the following table.

.....

(7) An employee may be authorized by the Department Director or designee to receive a taxable meal allowance when the employee's destination is at least 100 miles from their home base and the employee does not stay overnight.

(a) Breakfast is paid when the employee leaves their home base before 6:00 a.m.

(b) Lunch is paid when the trip meets one of the following requirements:

(i) The employee is on an officially approved trip that warrants entitlement to breakfast and dinner.

(ii) The employee leaves their home base before 10 a.m. and returns after 2 p.m.

(iii) The Department Director provides prior written approval based on circumstances.

(c) Dinner is paid when the employee leaves their home base and returns at 7 p.m. or later.

(d) The allowance is not considered an absolute right of the employee and is authorized at the discretion of the Department Director or designee.

R25-7-7. Meals for Statutory Non-Salaried State Boards.

(1) When a board meets and conducts business activities during mealtime, the cost of meals may be charged as public expense.

(2) Where salaried employees of the State of Utah or other advisors or consultants must, of necessity, attend such a meeting in order to permit the board to carry on its business, the meals of such employees, advisors, or consultants may also be paid. In determining whether or not the presence of such employees, advisors, or consultants is necessary, the boards are requested to restrict the attendance of such employees, advisors, or consultants to those absolutely necessary at such mealtime meetings.

R25-7-8. Reimbursement for Lodging.

State employees who travel on state business may be eligible for a lodging reimbursement.

(1) For stays at a conference hotel, the state will reimburse the actual cost plus tax for both in-state and out-of-state travel. The traveler must include the conference registration brochure with the Travel Reimbursement Request, form FI 51A or FI 51B.

(2) For in-state lodging at a non-conference hotel, the state will reimburse the actual cost up to \$65 per night for single occupancy plus tax except as noted in the table below:

.....

(3) State employees traveling less than 50 miles from their home base are not entitled to lodging reimbursement. Miles are calculated from either the departure home-base or from the destination to the traveler's home-base. The traveler may leave from one home-base and return to a different home-base. For example, if the traveler leaves from their residence, then the home-base for departure calculations is their residence. If the traveler returns to where they normally work (ie. Cannon Health Building), then the home-base for arrival calculations is the Cannon Health Building.

(a) In some cases, agencies must use judgement to determine a traveler's home-base. The following are some things to consider when determining a traveler's home-base.

(i) Is the destination less than 50 miles from the traveler's home or normal work location? If the destination is less than 50 miles from either the traveler's home or from their normal work location, then generally the employee should not be reimbursed for lodging.

(ii) Is there a valid business reason for the traveler to go to the office (or to some other location) before driving to the destination?

(iii) Is the traveler required to work at the destination the next day?

(iv) Is the traveler going directly home after the trip, or is there a valid business reason for the traveler to first go to the office (or to some other location)?

(iv) Even if "it is not specifically against policy", would the lodging be considered necessary, reasonable and in the best interest of the State?

(4) When the State of Utah pays for a person from out-of-state to travel to Utah, the in-state lodging per diem rates will apply.

(5) For out-of-state travel stays at a non-conference hotel, the state will reimburse the actual cost per night plus tax, not to exceed the federal lodging rate for the location. These reservations must be made through the State Travel Office.

(6) The state will reimburse the actual cost per night plus tax for in-state or out-of-state travel stays where the department/traveler makes reservations through the State Travel Office.

(7) Lodging is reimbursed at the rates listed in Table 5 for single occupancy only. For double state employee occupancy, add \$20, for triple state employee occupancy, add \$40, for quadruple state employee occupancy, add \$60.

(8) Exceptions will be allowed for unusual circumstances when approved in writing by the Department Director or designee prior to the trip.

(a) For out-of-state travel, the approval may be on the form FI 5.

(b) Attach the written approval to the Travel Reimbursement Request, form FI 51B or FI 51D.

(9) A proper receipt for lodging accommodations must accompany each request for reimbursement.

(a) The tissue copy of the charge receipt is not acceptable.

(b) A proper receipt is a copy of the registration form generally used by motels and hotels which includes the following information: name of motel/hotel, street address, town and state, telephone number, current date, name of person/persons staying at the motel/hotel, date(s) of occupancy, amount and date paid, signature of agent, number in the party, and (single, double, triple, or quadruple occupancy).

(10) When lodging is required, travelers should stay at the lodging facility nearest to the meeting/training/work location where state lodging per diem rates are accepted in order to minimize transportation costs.

(11) Travelers may also elect to stay with friends or relatives or use their personal campers or trailer homes instead of staying in a hotel.

(a) With proof of staying overnight away from home on approved state business, the traveler will be reimbursed the following:

(i) \$25 per night with no receipts required or

(ii) Actual cost up to \$40 per night with a signed receipt from a facility such as a campground or trailer park, not from a private residence.

(12) Travelers who are on assignment away from their home base for longer than 90 days will be reimbursed as follows:

(a) First 30 days - follow regular rules for lodging and meals. Lodging receipt is required.

(b) After 30 days - \$46 per day for lodging and meals. No receipt is required.

R25-7-9. Reimbursement for Incidentals.

State employees who travel on state business may be eligible for a reimbursement for incidental expenses.

(1) Travelers will be reimbursed for actual out-of-pocket costs for incidental items such as baggage tips and transportation costs.

(a) Tips for maid service, doormen, and meals are not reimbursable.

(b) No other gratuities will be reimbursed.

(c) Include an original receipt for each individual incidental item above \$19.99.

(2) The state will reimburse incidental ground transportation and parking expenses.

(a) Travelers shall document all official business use of taxi, bus, parking, and other ground transportation including dates, destinations, parking locations, receipts, and amounts.

(b) Personal use of such transportation to restaurants is not reimbursable.

(c) The maximum that airport parking will be reimbursed is the economy lot parking rate at the airport they are flying out of. A receipt is required for amounts of \$20 or more.

(3) Registration should be paid in advance on a state warrant.

(a) A copy of the approved FI 5 form must be included with the Payment Voucher for out-of-state registrations.

(b) If a traveler must pay the registration when they arrive, the agency is expected to process a Payment Voucher and have the traveler take the state warrant with them.

(4) Telephone calls related to state business are reimbursed at the actual cost.

(a) The traveler shall list the amount of these calls separately on the Travel Reimbursement Request, form FI 51A or FI 51B.

(b) The traveler must provide an original lodging receipt or original personal phone bill showing the phone number called and the dollar amount for business telephone calls and personal telephone calls made during stays of five nights or more.

(5) Allowances for personal telephone calls made while out of town on state business overnight will be based on the number of nights away from home.

(a) Four nights or less - actual amount up to \$2.50 per night (documentation is not required for personal phone calls made during stays of four nights or less)

(b) Five to eleven nights - actual amount up to \$20.00

(c) Twelve nights to thirty nights - actual amount up to \$30.00

(d) More than thirty days - start over

(6) Actual laundry expenses up to \$18.00 per week will be allowed for trips in excess of six consecutive nights, beginning after the sixth night out.

(a) The traveler must provide receipts for the laundry expense.

(b) For use of coin-operated laundry facilities, the traveler must provide a list of dates, locations, and amounts.

(7) An amount of \$5 per day will be allowed for travelers away in excess of six consecutive nights beginning after the sixth night out.

(a) This amount covers miscellaneous incidentals not covered in this rule.

(b) This allowance is not available for travelers going to conferences.

(8) Travel on a Weekend during Trips of More Than 10 Nights' Duration - A department may provide for employees to return home on a weekend when a trip extends longer than ten nights. Reimbursements may be given for costs allowed by these policies.

R25-7-10. Reimbursement for Transportation.

State employees who travel on state business may be eligible for a transportation reimbursement.

(1) Air transportation is limited to Air Coach or Excursion class. Priority seating charges will not be reimbursed unless preapproved by the department director or designee.

(a) All reservations (in-state and out-of-state) should be made through the State Travel Office for the least expensive air fare available at the time reservations are made.

(b) Only one change fee per trip will be reimbursed.

(c) The explanation for the change and any other exception to this rule must be given and approved by the Department Director or designee.

(d) In order to preserve insurance coverage and because of federal security regulations, travelers must fly on tickets in their names only.

(2) Travelers may be reimbursed for mileage to and from the airport and long-term parking or away-from-the-airport parking.

(a) The maximum reimbursement for parking, whether travelers park at the airport or away from the airport, is the economy lot parking rate at the airport they are flying out of.

(b) The parking receipt must be included with the Travel Reimbursement Request, form FI 51A or FI 51B for amounts of \$20 or more.

(c) Travelers may be reimbursed for mileage to and from the airport to allow someone to drop them off and to pick them up.

(3) Travelers may use private vehicles with approval from the Department Director or designee.

(a) Only one person in a vehicle may receive the reimbursement, regardless of the number of people in the vehicle.

(b) Reimbursement for a private vehicle will be at the rate of 38 cents per mile or ~~56.5~~56 cents per mile if a state vehicle is not available to the employee.

(i) To determine which rate to use, the traveler must first determine if their department has an agency vehicle (long-term leased vehicle from Fleet Operations) that meets their needs and is reasonably available for the trip (does not apply to special purpose vehicles). If reasonably available, the employee should use an agency vehicle. If an agency vehicle that meets their needs is not reasonably available, the agency may approve the traveler to use either a daily pool fleet vehicle or a private vehicle. If a daily pool fleet vehicle is not reasonably available, the traveler may be reimbursed at ~~56.5~~56 cents per mile.

(ii) If a trip is estimated to average 100 miles or more per day, the agency should approve the traveler to rent a daily pool fleet vehicle if one is reasonably available. Doing so will cost less than if the traveler takes a private vehicle. If the agency approves the traveler to take a private vehicle, the employee will be reimbursed at the lower rate of 38 cents per mile.

(c) Agencies may establish a reimbursement rate that is more restrictive than the rate established in this Section.

(d) Exceptions must be approved in writing by the Director of Finance.

(e) Mileage will be computed using Mapquest or other generally accepted map/route planning website, or from the latest official state road map and will be limited to the most economical, usually traveled routes.

(f) If the traveler uses a private vehicle on official state business and is reimbursed for mileage, parking charges may be reimbursed as an incidental expense.

(g) An approved Private Vehicle Usage Report, form FI 40, should be included with the department's payroll documentation reporting miles driven on state business during the payroll period.

(h) Departments may allow mileage reimbursement on an approved Travel Reimbursement Request, form FI 51A or FI 51B, if other costs associated with the trip are to be reimbursed at the same time.

(4) A traveler may choose to drive instead of flying if preapproved by the Department Director or designee.

(a) If the traveler drives a state-owned vehicle, the traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of the airline trip. The traveler may also be reimbursed for incidental expenses such as toll fees and parking fees.

(b) If the traveler drives a privately-owned vehicle, reimbursement will be at the rate of 38 cents per mile or the airplane fare, whichever is less, unless otherwise approved by the Department Director or designee.

(i) The lowest fare available within 30 days prior to the departure date will be used when calculating the cost of travel for comparison to private vehicle cost.

(ii) An itinerary printout which is available through the State Travel Office is required when the traveler is taking a private vehicle.

(iii) The traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of an airline trip.

(iv) If the traveler uses a private vehicle on official state business and is reimbursed for mileage, parking charges may be reimbursed as an incidental expense.

(c) When submitting the reimbursement form, attach a schedule comparing the cost of driving with the cost of flying. The schedule should show that the total cost of the trip driving was less than or equal to the total cost of the trip flying.

(d) If the travel time taken for driving during the employee's normal work week is greater than that which would have occurred had the employee flown, the excess time used will be taken as annual leave and deducted on the Time and Attendance System.

(5) Use of rental vehicles must be approved in writing in advance by the Department Director or designee.

(a) An exception to advance approval of the use of rental vehicles shall be fully explained in writing with the request for reimbursement and approved by the Department Director or designee.

(b) Detailed explanation is required if a rental vehicle is requested for a traveler staying at a conference hotel.

(c) When making rental car arrangements through the State Travel Office, reserve the vehicle you need. Upgrades in size or model made when picking up the rental vehicle will not be reimbursed.

(i) State employees should rent vehicles to be used for state business in their own names, using the state contract so they will have full coverage under the state's liability insurance.

(ii) Rental vehicle reservations not made through the State Travel Office must be approved in advance by the Department Director or designee.

(iii) The traveler will be reimbursed the actual rate charged by the rental agency.

(iv) The traveler must have approval for a rental car in order to be reimbursed for rental car parking.

(6) Travel by private airplane must be approved in advance by the Department Director or designee.

(a) The pilot must certify to the Department Director or designee that the pilot is certified to fly the plane being used for state business.

(b) If the plane is owned by the pilot/employee, the pilot must certify the existence of at least \$500,000 of liability insurance coverage.

(c) If the plane is a rental, the pilot must provide written certification from the rental agency that the insurance covers the traveler and the state as insured. The insurance must be adequate to cover any physical damage to the plane and at least \$500,000 for liability coverage.

(d) Reimbursement will be made at ~~[56.5]~~56 cents per mile.

(e) Mileage calculation is based on air mileage and is limited to the most economical, usually-traveled route.

(7) Travel by private motorcycle must be approved prior to the trip by the Department Director or designee. Travel will be reimbursed at 20 cents per mile.

(8) A car allowance may be allowed in lieu of mileage reimbursement in certain cases. Prior written approval from the Department Director, the Executive Director of the Department of Administrative Services, and the Governor is required.

KEY: air travel, per diem allowances, state employees, transportation

Date of Enactment or Last Substantive Amendment: January 1, 2014

Notice of Continuation: April 15, 2013

Authorizing, and Implemented or Interpreted Law: 63A-3-107; 63A-3-106

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <http://www.rules.utah.gov/publicat/code.htm>. The rule text may also be inspected at the agency or the Division of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

Education, Administration **R277-116**

Utah State Board of Education Internal Audit Procedure

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 38182
FILED: 12/16/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the Utah State Board of Education (Board) to adopt rules in accordance with its responsibilities. Subsection 53A-1-402(1) (e) directs the Board to develop rules and minimum standards regarding cost effectiveness measures, school budget formats, and financial accounting requirements for LEAs.

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 comment has 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 internal audits of programs under the Board's supervision. 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: 12/16/2013

Education, Administration **R277-437** Student Enrollment Options

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 38184
FILED: 12/16/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-402(1)(b) directs the Utah State Board of Education (Board) to establish rules and minimum standards for access to programs.

Section 53A-2-210 directs the Board to provide a formula by rule for resident students who attend school districts under Section 53A-2-206.5 et seq.

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 comment has 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 Utah public school statewide open enrollment. 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: 12/16/2013

Education, Administration
R277-495
 Required Policies for Electronic
 Devices in Public Schools

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 38188
 FILED: 12/16/2013

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the Utah State Board of Education (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 comment has 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 all Utah public school districts and public schools to use when adopting policies that govern the possession and use of electronic devices while on public school premises. 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: 12/16/2013

Education, Administration
R277-527
 International Guest Teachers

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 38189
 FILED: 12/16/2013

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) permits the Utah State Board of Education (Board) to adopt rules in accordance with its responsibilities. Subsection 53A-1-402(1) (a) directs the Board to establish rules and minimum standards for the qualification and licensing of educators and ancillary personnel who provide direct student 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: No written comment has been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides procedures for qualified international guest teachers to be effectively hired and placed by Utah local education agencies. 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: 12/16/2013

**School and Institutional Trust Lands,
Administration
R850-110
Motor Vehicle Travel Designations**

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

DAR FILE NO.: 38181
FILED: 12/16/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 53C-1-302(1)(a)(ii) and 53C-2-301(1)(g) authorize the Director of the School and Institutional Trust Lands Administration to establish rules consistent with general policies prescribed by the Board of Trustees. Subsection 41-22-10.1(2) authorizes the agency to designate trails, streets, or highways as open to off-highway vehicle use.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the agency since this rule was comprehensively amended in August, 2010, and became effective 10/25/2010.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Off-highway vehicle usage is a rapidly increasing recreational past-time. This rule is crucial to the effective management of this usage on trust lands in order to protect the environment and the value of the lands. The rule contains the guidelines establishing routes, usage, signage, types of vehicles, route widths, and restrictions. Therefore, this rule should be continued.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS
ADMINISTRATION
ROOM 500
675 E 500 S
SALT LAKE CITY, UT 84102-2818
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kim Christy by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

AUTHORIZED BY: Kevin Carter, Director

EFFECTIVE: 12/16/2013

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR EXPIRATIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). The Division of Administrative Rules (Division) is required to notify agencies of rules due for review at least 180 days prior to the anniversary date. If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR EXTENSION (EXTENSION)** with the Division. However, if the agency fails to file either the **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION** or the **EXTENSION** by the date provide by the Division, the rule expires.

Upon expiration of the rule, the Division files a **NOTICE OF FIVE-YEAR EXPIRATION (EXPIRATION)** to document the action. The Division is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule and it must follow regular rulemaking procedures to replace the rule if it is still needed.

The Division has filed **EXPIRATIONS** for each of the rules listed below which were not reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

Health, Family Health and
Preparedness, Primary Care and Rural
Health

R434-40

Utah Health Care Workforce Financial
Assistance Program Rules

FIVE-YEAR REVIEW EXPIRATION

DAR FILE NO.: 38192

FILED: 12/16/2013

SUMMARY: The five-year review was not filed by the deadline so this rule is removed from the Utah Administrative Code.

EFFECTIVE: 12/16/2013

End of the Notices of Notices of Five Year Expirations Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative 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 make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the 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.

Agencies have notified the Division of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Agriculture and Food

Horse Racing Commission (Utah)

No. 38019 (AMD): R52-7. Horse Racing

Published: 10/15/2013

Effective: 12/11/2013

No. 37830 (AMD): R307-350. Miscellaneous Metal Parts and Products Coatings

Published: 08/01/2013

Effective: 12/03/2013

No. 37830 (CPR): R307-350. Miscellaneous Metal Parts and Products Coatings

Published: 11/01/2013

Effective: 12/03/2013

No. 37987 (AMD): R307-403-1. Purpose and Definitions

Published: 10/01/2013

Effective: 12/05/2013

Education

Administration

No. 38042 (AMD): R277-494. Charter School and Online

Student Participation in Extracurricular or Co-curricular School Activities

Published: 11/01/2013

Effective: 12/09/2013

Tax Commission

Property Tax

No. 38057 (AMD): R884-24P-29. Taxable Household

Furnishings Pursuant to Utah Code Ann. Section 59-2-1113

Published: 11/01/2013

Effective: 01/01/2014

Environmental Quality

Air Quality

No. 37988 (AMD): R307-110-10. Section IX, Control

Measures for Area and Point Sources, Part A, Fine

Particulate Matter

Published: 10/01/2013

Effective: 12/05/2013

No. 38058 (AMD): R884-24P-53. 2013 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act

Pursuant to Utah Code Ann. Section 59-2-515

Published: 11/01/2013

Effective: 01/01/2014

No. 37990 (AMD): R307-121. General Requirements: Clean Air and Efficient Vehicle Tax Credit

Published: 10/01/2013

Effective: 01/01/2014

Transportation

Administration

No. 38055 (AMD): R907-1-6. Administrative Procedures for

Motor Carrier Actions

Published: 11/01/2013

Effective: 12/09/2013

No. 37989 (AMD): R307-123. General Requirements: Clean Fuels and Vehicle Technology Grant and Loan Program

Published: 10/01/2013

Effective: 12/05/2013

NOTICES OF RULE EFFECTIVE DATES

Program Development

No. 38056 (AMD): R926-11. Clean Fuel Vehicle Decal Program

Published: 11/01/2013

Effective: 12/09/2013

No. 38051 (AMD): R926-14. Utah Scenic Byway Program Administration; Scenic Byways Designation, De-designation, and Segmentation Processes

Published: 11/01/2013

Effective: 12/09/2013

Preconstruction

No. 38053 (REP): R930-1. Installation of New Mailboxes and Correction of Nonconforming Mailboxes

Published: 11/01/2013

Effective: 12/09/2013

No. 38052 (R&R): R930-6. Manual of Accommodation of Utility Facilities and the Control and Protection of State

Highway Rights-of-Way

Published: 11/01/2013

Effective: 12/09/2013

Preconstruction, Right-of-Way Acquisition

No. 38054 (REP): R933-3. Relocation or Modification of Existing Authorized Access Openings or Granting New Access Openings on Limited Access Highways

Published: 11/01/2013

Effective: 12/09/2013

End of the Notices of Rule Effective Dates Section

**2013 RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2013 through December 16, 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 the Division of Administrative Rules (801-538-3764).

A copy of the **RULES INDEX** is available for public inspection at the Division of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Administration</u>					
R13-1	Public Petitions for Declaratory Orders	37839	5YR	07/11/2013	2013-15/123
<u>Archives</u>					
R17-5	Definitions for Rules in Title R17	37653	5YR	05/17/2013	2013-12/49
R17-6	Records Storage and Disposal at the State Records Center	37654	5YR	05/17/2013	2013-12/49
R17-7	Archival Records Care and Access at the State Archives	37659	5YR	05/28/2013	2013-12/50
R17-7	Archival Records Care and Access at the State Archives	37658	AMD	08/15/2013	2013-12/8
R17-8	Application of Microfilm Standards	37655	5YR	05/17/2013	2013-12/50
<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
R23-30	State Facility Energy Efficiency Fund	37845	5YR	07/15/2013	2013-15/123
R23-30	State Facility Energy Efficiency Fund	37848	AMD	09/10/2013	2013-15/8
<u>Finance</u>					
R25-5	Payment of Per Diem to Boards	37521	5YR	04/15/2013	2013-9/29
R25-5	Payment of Per Diem to Boards	37558	AMD	06/21/2013	2013-10/6
R25-6	Relocation Reimbursement	37522	5YR	04/15/2013	2013-9/29
R25-7	Travel-Related Reimbursements for State Employees	37523	5YR	04/15/2013	2013-9/30
R25-7	Travel-Related Reimbursements for State Employees	37556	AMD	06/21/2013	2013-10/7
R25-7	Travel-Related Reimbursements for State Employees	38174	EMR	01/01/2014	Not Printed
R25-8	Overtime Meal Allowance	37524	5YR	04/15/2013	2013-9/30
R25-8	Overtime Meal Allowance	37557	AMD	06/21/2013	2013-10/12
<u>Fleet Operations</u>					
R27-3	Vehicle Use Standards	36949	AMD	03/07/2013	2012-22/11
R27-3-5	Personal Use Standards	37392	AMD	06/07/2013	2013-7/4
<u>Purchasing and General Services</u>					
R33-3-3	Small Purchases	37633	EMR	05/15/2013	2013-11/81
R33-3-3	Small Purchases	37837	AMD	10/24/2013	2013-15/12
R33-11	Surplus Property	37937	EMR	08/23/2013	2013-18/53
R33-11	Surplus Property	37938	AMD	10/24/2013	2013-18/6

<u>Records Committee</u>					
R35-1-3	Issuing the Committee Decision and Order	37773	AMD	08/30/2013	2013-14/8
AGRICULTURE AND FOOD					
<u>Animal Industry</u>					
R58-1	Admission and Inspection of Livestock, Poultry and Other Animals	37811	AMD	08/21/2013	2013-14/9
R58-6	Poultry	37248	R&R	03/25/2013	2013-4/6
R58-18	Elk Farming	37246	AMD	03/25/2013	2013-4/12
R58-18	Elk Farming	37850	AMD	09/10/2013	2013-15/15
R58-19	Compliance Procedures	37247	AMD	03/25/2013	2013-4/13
R58-21	Trichomoniasis	36962	AMD	01/04/2013	2012-22/16
<u>Conservation and Resource Management</u>					
R64-1	Agriculture Resource Development Loans (ARDL)	37701	NSC	09/30/2013	Not Printed
R64-2	Utah Conservation Commission Proposed Electronic Meetings	37698	5YR	06/04/2013	2013-13/229
R64-2	Utah Conservation Commission Electronic Proposed Meetings	37680	AMD	08/21/2013	2013-13/2
<u>Horse Racing Commission (Utah)</u>					
R52-7	Horse Racing	37420	EMR	03/20/2013	2013-8/47
R52-7	Horse Racing	37860	EMR	07/18/2013	2013-16/61
R52-7	Horse Racing	38019	AMD	12/11/2013	2013-20/6
<u>Plant Industry</u>					
R68-1	Utah Bee Inspection Act Governing Inspection of Bees	37631	NSC	06/07/2013	Not Printed
R68-2	Utah Commercial Feed Act Governing Feed.	37632	NSC	06/07/2013	Not Printed
R68-5	Grain Inspection	37249	5YR	02/05/2013	2013-5/189
R68-9	Utah Noxious Weed Act	37700	5YR	06/06/2013	2013-13/229
R68-14	Quarantine Pertaining to Gypsy Moth - Lymantria Dispar	37445	5YR	03/27/2013	2013-8/53
R68-16	Quarantine Pertaining to Pine Shoot Beetle, Tomicus piniperda	37669	5YR	05/30/2013	2013-12/51
<u>Regulatory Services</u>					
R70-310	Grade A Pasteurized Milk	37027	AMD	01/29/2013	2012-23/6
R70-320-18	Transport Tanks, Operators	36915	AMD	01/29/2013	2012-21/8
R70-330	Raw Milk for Retail	36914	AMD	01/29/2013	2012-21/9
R70-330	Raw Milk for Retail	37620	EMR	05/14/2013	2013-11/84
R70-330	Raw Milk for Retail	37992	AMD	11/13/2013	2013-19/4
R70-410	Grading and Inspection of Shell Eggs with Standard Grade and Weight Classes	38142	EMR	11/15/2013	2013-23/59
R70-630	Water Vending Machine	38197	5YR	12/19/2013	Not Printed
ALCOHOLIC BEVERAGE CONTROL					
<u>Administration</u>					
R81-1-9	Liquor Dispensing Systems	37962	AMD	10/30/2013	2013-18/12
R81-1-31	Duties of the Commission Subcommittees	37611	EMR	05/13/2013	2013-11/88
R81-1-31	Duties of Commission Subcommittees	37363	AMD	06/25/2013	2013-6/4
R81-1-31	Duties of Commission Subcommittees	37363	CPR	06/25/2013	2013-10/206
R81-2-12	Store Site Selection	37365	AMD	04/30/2013	2013-6/5
R81-4A-2	Application	37367	AMD	04/30/2013	2013-6/5
R81-4A-2	Application	37615	AMD	07/30/2013	2013-11/6
R81-4A-7	Sale and Purchase of Alcoholic Beverages	38028	AMD	11/26/2013	2013-20/14
R81-4B-2	Application	37368	AMD	04/30/2013	2013-6/6
R81-4C	Limited Restaurant Licenses	37834	5YR	07/10/2013	2013-15/124
R81-4C-2	Application	37369	AMD	04/30/2013	2013-6/7
R81-4C-2	Application	37616	AMD	07/30/2013	2013-11/7
R81-4C-7	Sale and Purchase of Alcoholic Beverages	38029	AMD	11/26/2013	2013-20/15
R81-4D	On-Premise Banquet License	37835	5YR	07/11/2013	2013-15/125
R81-4D-2	Application	37370	AMD	04/30/2013	2013-6/8

RULES INDEX

R81-4E-2	Application	37371	AMD	04/30/2013	2013-6/9
R81-4F-2	Application	37372	AMD	04/30/2013	2013-6/10
R81-5-1	Licensing	37617	AMD	09/24/2013	2013-11/8
R81-5-1	Licensing	37617	CPR	09/24/2013	2013-16/54
R81-5-2	Application	37373	AMD	04/30/2013	2013-6/11
R81-5-5	Advertising	37618	AMD	07/30/2013	2013-11/9
R81-5-18	Age Verification - Dining and Social Clubs	37619	NSC	06/07/2013	Not Printed
R81-9-1	Application	37377	AMD	04/30/2013	2013-6/12
R81-10	Off-Premise Beer Retailers	37673	5YR	05/31/2013	2013-12/51
R81-10A-3	Application	37374	AMD	04/30/2013	2013-6/13
R81-10B	Temporary Beer Event Permits	37836	5YR	07/11/2013	2013-15/125
R81-10C-2	Application	37375	AMD	04/30/2013	2013-6/14
R81-10C-6	Sale and Purchase of Beer	38027	AMD	11/26/2013	2013-20/16
R81-10D-2	Application	37376	AMD	04/30/2013	2013-6/15
R81-11-1	Application	37378	AMD	04/30/2013	2013-6/16

CAPITOL PRESERVATION BOARD (STATE)

Administration

R131-2	Capitol Hill Complex Facility Use	37064	AMD	01/07/2013	2012-23/9
R131-2-6	General Requirements for Use of the Capitol Hill Complex	37799	AMD	08/21/2013	2013-14/17

CAREER SERVICE REVIEW OFFICE

Administration

R137-1	Grievance Procedure Rules	37607	AMD	07/22/2013	2013-11/10
R137-2	Government Records Access and Management Act	37535	5YR	04/23/2013	2013-10/213

COMMERCE

Consumer Protection

R152-32a	Pawnshop and Secondhand Merchandise Transaction Information Act Rules	37897	5YR	08/05/2013	2013-17/45
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Corporations and Commercial Code

R154-100	Utah Administrative Procedures Act Rules	38024	5YR	09/26/2013	2013-20/49
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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	General Rule of the Division of Occupational and Professional Licensing	37754	AMD	08/22/2013	2013-14/21
R156-1	General Rule of the Division of Occupational and Professional Licensing	38020	AMD	11/21/2013	2013-20/17
R156-1-102	Definitions	37199	AMD	03/11/2013	2013-3/2
R156-3a-102	Definitions	37073	AMD	01/24/2013	2012-24/6
R156-5a	Podiatric Physician Licensing Act Rule	37997	5YR	09/16/2013	2013-19/147
R156-11a	Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule	37697	AMD	08/08/2013	2013-13/3
R156-17b	Pharmacy Practice Act Rule	37707	AMD	08/08/2013	2013-13/7
R156-17b	Pharmacy Practice Act Rule	38075	AMD	12/23/2013	2013-22/17
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rule	37074	AMD	01/24/2013	2012-24/7
R156-24b-503	Physical Therapist Supervisory Authority and Responsibility	37526	AMD	06/10/2013	2013-9/2
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
R156-37c	Utah Controlled Substance Precursor Act Rule	37959	5YR	09/03/2013	2013-18/61
R156-37f	Controlled Substance Database Act Rule	37039	NEW	01/08/2013	2012-23/21
R156-37f-102	Definitions	38031	AMD	11/21/2013	2013-20/20
R156-44a	Nurse Midwife Practice Act Rules	37071	AMD	01/22/2013	2012-24/11
R156-46b-202	Informal Adjudicative Proceedings	38021	AMD	11/21/2013	2013-20/21
R156-46b-202	Informal Adjudicative Proceedings	38153	NSC	12/12/2013	Not Printed

R156-49	Dietitian Certification Act Rule	37273	5YR	02/07/2013	2013-5/189
R156-49	Dietitian Certification Act Rule	38074	AMD	12/23/2013	2013-22/41
R156-53	Landscape Architects Licensing Act Rule	37274	5YR	02/07/2013	2013-5/190
R156-55a	Utah Construction Trades Licensing Act Rule	37364	AMD	04/22/2013	2013-6/17
R156-55d	Burglar Alarm Licensing Rule	37943	AMD	10/29/2013	2013-18/14
R156-56-403	Factory Built Housing Dispute Resolution Program	37753	AMD	08/22/2013	2013-14/27
R156-60	Mental Health Professional Practice Act Rule	37948	AMD	10/22/2013	2013-18/16
R156-60b	Marriage and Family Therapist Licensing Act Rule	38068	AMD	12/23/2013	2013-22/42
R156-60d	Substance Use Disorder Counselor Act Rule	38017	AMD	11/21/2013	2013-20/23
R156-61	Psychologist Licensing Act Rule	37965	AMD	11/07/2013	2013-19/7
R156-63a	Security Personnel Licensing Act Contract Security Rule	37974	5YR	09/09/2013	2013-19/147
R156-63a-102	Definitions	37944	AMD	10/29/2013	2013-18/18
R156-63b	Security Personnel Licensing Act Armored Car Rule	37975	5YR	09/09/2013	2013-19/148
R156-63b-102	Definitions	37945	AMD	10/29/2013	2013-18/19
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
R156-69-302b	Qualifications for Licensure - Examination Requirements - Dentist	37706	AMD	08/08/2013	2013-13/24
R156-70a-304	Continuing Education	37705	AMD	08/08/2013	2013-13/25
R156-74	Certified Court Reporters Licensing Act Rule	37958	5YR	09/03/2013	2013-18/61
R156-75	Genetic Counselors Licensing Act Rule	37533	AMD	06/24/2013	2013-10/15
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
R156-83	Online Prescribing, Dispensing, and Facilitation Licensing Act Rule	37942	AMD	10/22/2013	2013-18/21
<u>Real Estate</u>					
R162-2c	Utah Residential Mortgage Practices and Licensing Rules	37678	AMD	08/07/2013	2013-12/9
R162-2c-204	License Renewal, Reinstatement, and Reapplication	37949	AMD	11/20/2013	2013-18/22
R162-2e	Appraisal Management Company Administrative Rules	37677	AMD	08/28/2013	2013-12/19
R162-2f	Real Estate Licensing and Practices Rules	37393	AMD	05/08/2013	2013-7/8
R162-2f	Real Estate Licensing and Practices Rules	37530	AMD	06/21/2013	2013-10/17
R162-2f-403	Trust Accounts	37394	AMD	05/08/2013	2013-7/16
R162-2f-403a	Trust Accounts	37664	NSC	06/24/2013	Not Printed
R162-2g	Real Estate Appraiser Licensing and Certification Administrative Rules	36973	AMD	01/02/2013	2012-22/19
R162-2g	Real Estate Appraiser Licensing and Certification Administrative Rules	37750	AMD	08/21/2013	2013-14/28
R162-2g	Real Estate Appraiser Licensing and Certification Administrative Rules	37865	AMD	10/09/2013	2013-16/4
R162-2g-307d	Instructor Certification for Pre-licensing Education	37950	AMD	10/23/2013	2013-18/25
R162-57a	Timeshare and Camp Resort Rules	37076	AMD	04/02/2013	2012-24/14
<u>Securities</u>					
R164-31	Administrative Fines	37660	5YR	05/28/2013	2013-12/52
R164-31-1	Guidelines for the Assessment of Administrative Fines	37042	AMD	01/08/2013	2012-23/26
CORRECTIONS					
<u>Administration</u>					
R251-103	Undercover Roles of Offenders	38032	5YR	09/30/2013	2013-20/49
R251-105	Applicant Qualifications for Employment with Department of Corrections	38030	5YR	09/30/2013	2013-20/50
R251-111	Government Records Access and Management	37828	EXD	07/09/2013	2013-15/137
R251-114	Offender Long-Term Health Care - Notice	37389	5YR	03/07/2013	2013-7/61

RULES INDEX

CRIME VICTIM REPARATIONS

Administration

R270-1	Award and Reparation Standards	37061	AMD	01/07/2013	2012-23/27
R270-1	Award and Reparation Standards	37166	NSC	01/30/2013	Not Printed
R270-1	Award and Reparation Standards	37380	AMD	04/22/2013	2013-6/25
R270-2	Crime Victim Reparations Adjudicative Proceedings	37063	AMD	01/07/2013	2012-23/33
R270-2	Crime Victim Reparations Adjudicative Proceedings	37167	NSC	01/30/2013	Not Printed

EDUCATION

Administration

R277-101	Utah State Board of Education Procedures	37355	AMD	04/22/2013	2013-6/26
R277-104	ADA Complaint Procedure	37626	5YR	05/15/2013	2013-11/97
R277-106	Utah Professional Practices Advisory Commission Appointment Process	37966	5YR	09/09/2013	2013-19/149
R277-106	Utah Professional Practices Advisory Commission Appointment Process	37998	AMD	11/07/2013	2013-19/12
R277-113	LEA Fiscal Policies and Accountability	37356	NEW	04/22/2013	2013-6/28
R277-113	LEA Fiscal Policies and Accountability	37999	AMD	11/07/2013	2013-19/14
R277-113-5	Required LEA Fiscal Policies	37538	NSC	05/17/2013	Not Printed
R277-116	Utah State Board of Education Internal Audit Procedure	38182	5YR	12/16/2013	Not Printed
R277-402	Online Testing	38000	REP	11/07/2013	2013-19/17
R277-403	Student Reading Proficiency and Notice to Parents	37708	5YR	06/10/2013	2013-13/230
R277-403	Student Reading Proficiency and Notice to Parents	38001	AMD	11/07/2013	2013-19/19
R277-404	Requirements for Assessments of Student Achievement	37993	5YR	09/13/2013	2013-19/149
R277-404	Requirements for Assessments of Student Achievement	38002	AMD	11/07/2013	2013-19/22
R277-405	Requirements for Assessment Pilot Programs	38003	REP	11/07/2013	2013-19/26
R277-406	K-3 Reading Improvement Program and the State Reading Goal	37709	5YR	06/10/2013	2013-13/230
R277-406	K-3 Reading Improvement Program and the State Reading Goal	37734	AMD	08/07/2013	2013-13/26
R277-407-2	Authority and Purpose	37755	NSC	07/19/2013	Not Printed
R277-407-3	Classes and Activities During the Regular School Day	37735	AMD	08/07/2013	2013-13/28
R277-410-3	Accreditation of Public Schools	37920	AMD	10/08/2013	2013-17/4
R277-411	School District Sponsored School Seminars on Youth Protection-Related Issues	37634	NEW	07/08/2013	2013-11/16
R277-412	State Capitol Visit Program	37921	NEW	10/08/2013	2013-17/4
R277-412-1	Definitions	38045	NSC	10/30/2013	Not Printed
R277-422-3	Requirements and Timelines for State-Supported Voted Local Levy	37736	AMD	08/07/2013	2013-13/29
R277-425	Budgeting, Accounting, and Auditing for Utah Local Education Agencies (LEAs)	37884	5YR	08/02/2013	2013-17/45
R277-425	Budgeting, Accounting, and Auditing for Utah Local Education Agencies (LEAs)	37922	AMD	10/08/2013	2013-17/6
R277-436	Gang Prevention and Intervention Programs in the Schools	37627	5YR	05/15/2013	2013-11/97
R277-437	Student Enrollment Options	38184	5YR	12/16/2013	Not Printed
R277-445-2	Authority and Purpose	37756	NSC	07/19/2013	Not Printed
R277-445-3	Standards	37278	AMD	04/08/2013	2013-5/13
R277-445-3	Standards	37737	AMD	08/07/2013	2013-13/30
R277-460	Distribution of Substance Abuse Prevention Account	37628	5YR	05/15/2013	2013-11/98
R277-460-6	Evaluation and Reports	37419	NSC	04/15/2013	Not Printed
R277-469	Instructional Materials Commission Operating Procedures	37494	5YR	04/08/2013	2013-9/31
R277-469	Instructional Materials Commission Operating Procedures	37509	AMD	06/07/2013	2013-9/3
R277-470	Charter Schools - General Provisions	37885	5YR	08/02/2013	2013-17/46

R277-470	Charter Schools - General Provisions	37923	AMD	10/08/2013	2013-17/7
R277-473	Testing Procedures	38004	REP	11/07/2013	2013-19/27
R277-477	Distribution of Funds from the Interest and Dividend Account (School LAND Trust Funds) and Administration of the School LAND Trust Program	37710	5YR	06/10/2013	2013-13/231
R277-477	Distribution of Funds from the Interest and Dividend Account (School LAND Trust Funds) and Administration of the School LAND Trust Program	37738	R&R	08/07/2013	2013-13/32
R277-477-4	Distribution of Funds - Determination of Proportionate Share	38005	AMD	11/07/2013	2013-19/31
R277-481	Charter School Oversight, Monitoring and Appeals	37886	5YR	08/02/2013	2013-17/46
R277-481	Charter School Oversight, Monitoring and Appeals	37924	AMD	10/08/2013	2013-17/10
R277-482	Charter School Timelines and Approval Processes	37887	5YR	08/02/2013	2013-17/47
R277-482	Charter School Timelines and Approval Processes	37925	AMD	10/08/2013	2013-17/13
R277-483	Persistently Dangerous Schools	37495	5YR	04/08/2013	2013-9/31
R277-484	Data Standards	37145	AMD	02/21/2013	2013-2/4
R277-484	Data Standards	37739	AMD	08/07/2013	2013-13/39
R277-485	Loss of Enrollment	37496	5YR	04/08/2013	2013-9/32
R277-487	Public School Student Confidentiality	37144	AMD	02/21/2013	2013-2/7
R277-487	Public School Data Confidentiality and Disclosure	37740	AMD	08/07/2013	2013-13/43
R277-489	Early Intervention Program	37741	AMD	08/07/2013	2013-13/46
R277-490	Beverly Taylor Sorenson Elementary Arts Learning Program	37711	5YR	06/10/2013	2013-13/231
R277-490	Beverly Taylor Sorenson Elementary Arts Learning Program	37742	AMD	08/07/2013	2013-13/48
R277-491	School Community Councils	37629	5YR	05/15/2013	2013-11/98
R277-491	School Community Councils	37636	R&R	07/08/2013	2013-11/17
R277-492	Utah Science Technology and Research Initiative (USTAR) Centers Program	37888	5YR	08/02/2013	2013-17/47
R277-492	Utah Science Technology and Research Initiative (USTAR) Centers Program	37926	AMD	10/08/2013	2013-17/17
R277-494	Charter School and Online Student Participation in Extracurricular or Co-curricular School Activities	38041	5YR	10/04/2013	2013-21/71
R277-494	Charter School and Online Student Participation in Extracurricular or Co-curricular School Activities	38042	AMD	12/09/2013	2013-21/6
R277-495	Required Policies for Electronic Devices in Public Schools	38188	5YR	12/16/2013	Not Printed
R277-497	School Grading System	38109	5YR	11/08/2013	2013-23/63
R277-498	Grant for Math Teaching Training	37279	NEW	04/08/2013	2013-5/14
R277-498-4	Criteria for Awarding Grants	37507	NSC	04/29/2013	Not Printed
R277-502	Educator Licensing and Data Retention	37058	AMD	01/07/2013	2012-23/34
R277-502	Educator Licensing and Data Retention	37146	AMD	02/21/2013	2013-2/10
R277-502	Educator Licensing and Data Retention	38006	AMD	11/07/2013	2013-19/32
R277-502-3	Program Approval and Requirements	38126	NSC	12/12/2013	Not Printed
R277-508	Employment of Substitute Teachers	37497	5YR	04/08/2013	2013-9/32
R277-508	Employment of Substitute Teachers	37510	AMD	06/07/2013	2013-9/8
R277-509	Licensure of Student Teachers and Interns	37059	AMD	01/07/2013	2012-23/39
R277-517	Board and UPPAC Disciplinary Definitions and Actions	37147	NEW	02/21/2013	2013-2/15
R277-517-5	Board Disciplinary Actions	37359	NSC	03/15/2013	Not Printed
R277-518	Career and Technical Education Licenses	37399	5YR	03/12/2013	2013-7/61
R277-525	Special Educator Stipends	37712	5YR	06/10/2013	2013-13/232
R277-526	Paraeducator to Teacher Scholarship Program	37889	5YR	08/02/2013	2013-17/48
R277-527	International Guest Teachers	38189	5YR	12/16/2013	Not Printed
R277-531-3	Public Educator Evaluation Framework	37537	AMD	06/24/2013	2013-10/26
R277-532	Local Board Policies for Evaluation of Non-Licensed Public Education Employees (Classified Employees)	37280	NEW	04/08/2013	2013-5/16

RULES INDEX

R277-600	Student Transportation Standards and Procedures	37400	5YR	03/12/2013	2013-7/62
R277-600	Student Transportation Standards and Procedures	37413	AMD	05/16/2013	2013-7/20
R277-602	Special Needs Scholarships - Funding and Procedures	37713	5YR	06/10/2013	2013-13/232
R277-602	Special Needs Scholarships - Funding and Procedures	37743	AMD	08/07/2013	2013-13/51
R277-605	Coaching Standards and Athletic Clinics	37401	5YR	03/12/2013	2013-7/62
R277-606	Grants to Purchase or Retrofit Clean School Buses	37744	REP	08/07/2013	2013-13/55
R277-609	Standards for School District, School and Charter School Discipline Plans	37890	5YR	08/02/2013	2013-17/48
R277-609	Standards for School District, School and Charter School Discipline Plans	37927	AMD	10/08/2013	2013-17/20
R277-609-3	LEA Responsibility to Develop Plans	38046	NSC	10/30/2013	Not Printed
R277-610	Released-Time Classes	37402	5YR	03/12/2013	2013-7/63
R277-610	Released-Time Classes	37414	AMD	05/16/2013	2013-7/24
R277-613	School District and Charter School Bullying and Hazing Policies and Training	37891	5YR	08/02/2013	2013-17/49
R277-613	School District and Charter School Bullying and Hazing Policies and Training	37928	AMD	10/08/2013	2013-17/23
R277-614	Athletes and Students with Head Injuries	37630	5YR	05/15/2013	2013-11/99
R277-614	Athletes and Students with Head Injuries	37635	AMD	07/08/2013	2013-11/23
R277-617	Smart School Technology Program	37714	5YR	06/10/2013	2013-13/233
R277-617	Smart School Technology Program	37745	AMD	08/07/2013	2013-13/56
R277-619	Student Leadership Skills Development	37746	NEW	08/07/2013	2013-13/58
R277-620	Suicide Prevention Programs	37929	NEW	10/08/2013	2013-17/26
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
R277-702	Procedures for the Utah High School Completion Diploma (Effective on July 1, 2009)	37415	AMD	05/16/2013	2013-7/26
R277-704	Financial and Economic Literacy: Integration into Core Curriculum and Financial and Economic Literacy Student Passports	38110	5YR	11/08/2013	2013-23/63
R277-705	Secondary School Completion and Diplomas	37994	5YR	09/13/2013	2013-19/150
R277-705	Secondary School Completion and Diplomas	38007	AMD	11/07/2013	2013-19/37
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
R277-713	Concurrent Enrollment of High School Students in College Courses	37808	AMD	08/26/2013	2013-14/34
R277-719	Standards for Selling Foods Outside of the Reimbursable Meal in Schools	37406	5YR	03/12/2013	2013-7/65
R277-746	Driver Education Programs for Utah Schools	37498	5YR	04/08/2013	2013-9/33
R277-750-3	Standards and Procedures	37930	AMD	10/08/2013	2013-17/28
R277-751	Special Education Extended School Year (ESY)	37499	5YR	04/08/2013	2013-9/33
R277-751	Special Education Extended School Year (ESY)	37511	AMD	06/07/2013	2013-9/10
<u>Rehabilitation</u>					
R280-200	Rehabilitation	37500	5YR	04/08/2013	2013-9/34
R280-200	Rehabilitation	37512	AMD	06/07/2013	2013-9/12

ENVIRONMENTAL QUALITY

Administration

R305-2	Electronic Meeting	37360	5YR	02/25/2013	2013-6/50
R305-4	Clean Fuels and Vehicle Technology Fund Grant and Loan Program	37847	5YR	07/15/2013	2013-15/126
R305-4-5	Final Approval Procedure and Payment Process	38048	AMD	12/19/2013	2013-21/7
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
<u>Air Quality</u>					
R307-101-2	Definitions	36723	AMD	02/01/2013	2012-19/29
R307-101-2	Definitions	36723	CPR	02/01/2013	2013-1/38
R307-101-2	Definitions	37702	NSC	07/09/2013	Not Printed
R307-101-3	Version of Code of Federal Regulations Incorporated by Reference	37582	AMD	08/08/2013	2013-11/24
R307-102	General Requirements: Broadly Applicable Requirements	37261	5YR	02/06/2013	2013-5/191
R307-107	General Requirements: Breakdowns	37902	5YR	08/08/2013	2013-17/49
R307-110-10	Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter	37903	AMD	11/07/2013	2013-17/29
R307-110-10	Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter	37988	AMD	12/05/2013	2013-19/41
R307-110-36	Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County	37904	AMD	11/07/2013	2013-17/30
R307-115	General Conformity	37260	5YR	02/06/2013	2013-5/192
R307-121	General Requirements: Clean Air and Efficient Vehicle Tax Credit	37990	AMD	01/01/2014	2013-19/42
R307-123	General Requirements: Clean Fuels and Vehicle Technology Grant and Loan Program	37901	5YR	08/08/2013	2013-17/50
R307-123	General Requirements: Clean Fuels and Vehicle Technology Grant and Loan Program	37989	AMD	12/05/2013	2013-19/45
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
R307-214	National Emission Standards for Hazardous Air Pollutants	37703	AMD	09/12/2013	2013-13/60
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
R307-342	Adhesives and Sealants	37275	NEW	08/01/2013	2013-5/17
R307-342	Adhesives and Sealants	37275	CPR	08/01/2013	2013-13/208

RULES INDEX

R307-343	Ozone Nonattainment and Maintenance Areas: Emissions Standards for Wood Furniture Manufacturing Operations	36738	AMD	05/01/2013	2012-19/56
R307-343	Ozone Nonattainment and Maintenance Areas: Emissions Standards for Wood Furniture Manufacturing Operations	36738	CPR	05/01/2013	2013-1/49
R307-343	Emissions Standards for Wood Furniture Manufacturing Operations	36738	CPR	05/01/2013	2013-7/44
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
R307-350	Miscellaneous Metal Parts and Products Coatings	37830	AMD	12/03/2013	2013-15/24
R307-350	Miscellaneous Metal Parts and Products Coatings	37830	CPR	12/03/2013	2013-21/68
R307-351	Graphic Arts	36733	NEW	02/01/2013	2012-19/80
R307-351	Graphic Arts	36733	CPR	02/01/2013	2013-1/69
R307-351-2	Applicability	38015	NSC	10/08/2013	Not Printed
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
R307-353	Plastic Part Coatings	36735	NEW	05/01/2013	2012-19/86
R307-353	Plastic Parts Coatings	36735	CPR	05/01/2013	2013-1/75
R307-353	Plastic Parts Coatings	36735	CPR	05/01/2013	2013-7/46
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
R307-357	Consumer Products	37276	NEW	08/01/2013	2013-5/22
R307-357	Consumer Products	37276	CPR	08/01/2013	2013-13/213
R307-361	Architectural Coatings	37704	NEW	10/31/2013	2013-13/64
R307-361	Architectural Coatings	37704	CPR	10/31/2013	2013-19/138
R307-401-7	Public Notice	37831	AMD	10/03/2013	2013-15/27
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
R307-401-19	Analysis of Alternatives	37268	AMD	07/01/2013	2013-5/36
R307-401-19	Analysis of Alternatives	37268	CPR	07/01/2013	2013-11/72
R307-401-20	Relaxation of Limitations	37269	AMD	07/01/2013	2013-5/36
R307-401-20	Relaxation of Limitations	37269	CPR	07/01/2013	2013-11/72
R307-403-1	Definitions	37263	AMD	07/01/2013	2013-5/37
R307-403-1	Purpose and Definitions	37263	CPR	07/01/2013	2013-11/73
R307-403-1	Purpose and Definitions	37987	AMD	12/05/2013	2013-19/47
R307-403-2	Emission Limitations	37264	AMD	07/01/2013	2013-5/39
R307-403-2	Applicability	37264	CPR	07/01/2013	2013-11/74
R307-403-10	Analysis of Alternatives	37266	AMD	07/01/2013	2013-5/42
R307-403-10	Analysis of Alternatives	37266	CPR	07/01/2013	2013-11/77
R307-403-11	Actuals PALs	37267	AMD	07/01/2013	2013-5/43
R307-403-11	Actuals PALs	37267	CPR	07/01/2013	2013-11/77
R307-420	Permits: Ozone Offset Requirements in Davis and Salt Lake Counties	37265	AMD	07/01/2013	2013-5/43

R307-420	Permits: Ozone Offset Requirements in Davis and Salt Lake Counties	37265	CPR	07/01/2013	2013-11/78
R307-801	Utah Asbestos Rule	37252	5YR	02/06/2013	2013-5/197
<u>Drinking Water</u>					
R309-100	Administration: Drinking Water Program	37781	NSC	07/19/2013	Not Printed
R309-105	Administration: General Responsibilities of Public Water Systems	37795	AMD	10/12/2013	2013-14/39
R309-110	Administration: Definitions	37782	NSC	07/19/2013	Not Printed
R309-115	Administrative Procedures	37783	NSC	07/19/2013	Not Printed
R309-200	Monitoring and Water Quality: Drinking Water Standards	37789	NSC	07/19/2013	Not Printed
R309-205	Monitoring and Water Quality: Source Monitoring Requirements	37786	NSC	07/19/2013	Not Printed
R309-210	Monitoring and Water Quality: Distribution System Monitoring Requirements	37784	NSC	07/19/2013	Not Printed
R309-215	Monitoring and Water Quality: Treatment Plant Monitoring Requirements	37788	NSC	07/19/2013	Not Printed
R309-220	Monitoring and Water Quality: Public Notification Requirements	37785	NSC	07/19/2013	Not Printed
R309-225	Monitoring and Water Quality: Consumer Confidence Reports	37787	NSC	07/19/2013	Not Printed
R309-300	Certification Rules for Water Supply Operators	37858	AMD	11/13/2013	2013-15/30
R309-305	Certification Rules for Backflow Technicians	37859	AMD	11/13/2013	2013-15/36
R309-400	Water System Rating Criteria	37796	AMD	10/12/2013	2013-14/45
R309-405	Compliance and Enforcement: Administrative Penalty	37797	AMD	10/12/2013	2013-14/51
R309-500	Facility Design and Operation: Plan Review, Operation and Maintenance Requirements	37722	AMD	08/28/2013	2013-13/73
R309-505	Facility Design and Operation: Minimum Treatment Requirements	37723	NSC	07/09/2013	Not Printed
R309-510	Facility Design and Operation: Minimum Sizing Requirements	37724	AMD	08/28/2013	2013-13/77
R309-511	Hydraulic Modeling Requirements	37725	AMD	08/28/2013	2013-13/81
R309-515	Facility Design and Operation: Source Development	37726	AMD	08/28/2013	2013-13/84
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
R309-520	Facility Design and Operation: Disinfection	37727	AMD	08/28/2013	2013-13/93
R309-525	Facility Design and Operation: Conventional Surface Water Treatment	37728	AMD	08/28/2013	2013-13/103
R309-530	Facility Design and Operation: Alternative Surface Water Treatment Methods	37729	AMD	08/28/2013	2013-13/114
R309-535	Facility Design and Operation: Miscellaneous Treatment Methods	37730	AMD	08/28/2013	2013-13/117
R309-540	Facility Design and Operation: Pump Stations	37731	NSC	07/09/2013	Not Printed
R309-545	Facility Design and Operation: Drinking Water Storage Tanks	37732	NSC	07/09/2013	Not Printed
R309-550	Facility Design and Operation: Transmission and Distribution Pipelines	37733	NSC	07/09/2013	Not Printed
R309-600	Source Protection: Drinking Water Source Protection For Ground-Water Sources	37721	NSC	07/09/2013	Not Printed
R309-605	Source Protection: Drinking Water Source Protection for Surface Water Sources	37720	NSC	07/09/2013	Not Printed
R309-700	Financial Assistance: State Drinking Water State Revolving Fund (SRF) Loan Program	37748	NSC	07/09/2013	Not Printed
R309-705	Financial Assistance: Federal Drinking Water State Revolving Fund (SRF) Loan Program	37749	NSC	07/09/2013	Not Printed
R309-800	Capacity Development Program	37747	NSC	07/09/2013	Not Printed
<u>Environmental Response and Remediation</u>					
R311-200	Underground Storage Tanks: Definitions	37481	NSC	04/29/2013	Not Printed
R311-201	Underground Storage Tanks: Certification Programs and UST Operator Training	37482	NSC	04/29/2013	Not Printed
R311-203	Underground Storage Tanks: Technical Standards	37483	NSC	04/29/2013	Not Printed

RULES INDEX

R311-204	Underground Storage Tanks: Closure and Remediation	37484	NSC	04/29/2013	Not Printed
R311-205	Underground Storage Tanks: Site Assessment Protocol	37485	NSC	04/29/2013	Not Printed
R311-206	Underground Storage Tanks: Certificate of Compliance and Financial Assurance Mechanisms	37486	NSC	04/29/2013	Not Printed
R311-207	Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks	37579	NSC	05/17/2013	Not Printed
R311-208	Underground Storage Tank Penalty Guidance	37488	NSC	04/29/2013	Not Printed
R311-209	Petroleum Storage Tank Cleanup Fund and State Cleanup Appropriation	37489	NSC	04/29/2013	Not Printed
R311-211	Corrective Action Cleanup Standards Policy - UST and CERCLA Sites	37490	NSC	04/29/2013	Not Printed
R311-212	Administration of the Petroleum Storage Tank Loan Fund	37491	NSC	04/29/2013	Not Printed
R311-500	Illegal Drug Operations Site Reporting and Decontamination Act, Decontamination Specialist Certification Program	37513	NSC	04/29/2013	Not Printed
<u>Radiation Control</u>					
R313-12	General Provisions	37189	AMD	03/19/2013	2013-3/6
R313-12-3	Definitions	37597	NSC	06/07/2013	Not Printed
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
R313-21	General Licenses	38039	5YR	10/04/2013	2013-21/71
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
R313-28-80	Intraoral Dental Radiographic Systems	37867	AMD	10/15/2013	2013-16/6
R313-30	Therapeutic Radiation Machines	37197	AMD	03/19/2013	2013-3/76
R313-30	Therapeutic Radiation Machines	38040	5YR	10/04/2013	2013-21/72
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
R313-38	Licenses and Radiation Safety Requirements for Well Logging	38043	5YR	10/07/2013	2013-21/72
R313-70	Payments, Categories and Types of Fees	37188	NSC	01/31/2013	Not Printed
<u>Solid and Hazardous Waste</u>					
R315-1	Utah Hazardous Waste Definitions and References	37305	AMD	04/25/2013	2013-5/45
R315-2	General Requirements - Identification and Listing of Hazardous Waste	37306	AMD	04/25/2013	2013-5/48
R315-3	Application and Permit Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities	37307	AMD	04/25/2013	2013-5/63

R315-4	Procedures for Decisionmaking	37308	AMD	04/25/2013	2013-5/64
R315-5	Hazardous Waste Generator Requirements	37309	AMD	04/25/2013	2013-5/69
R315-6	Hazardous Waste Transporter Requirements	37310	AMD	04/25/2013	2013-5/73
R315-7	Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities	37311	AMD	04/25/2013	2013-5/76
R315-8	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities	37312	AMD	04/25/2013	2013-5/99
R315-9	Emergency Controls	37313	AMD	04/25/2013	2013-5/100
R315-12	Administrative Procedures	37314	AMD	04/25/2013	2013-5/101
R315-13	Land Disposal Restrictions	37315	AMD	04/25/2013	2013-5/102
R315-16	Standards for Universal Waste Management	37317	AMD	04/25/2013	2013-5/103
R315-17	End of Life Automotive Mercury Switch Removal Standards	37318	AMD	04/25/2013	2013-5/107
R315-50-6	Representative Sampling Methods	37319	AMD	04/25/2013	2013-5/109
R315-101	Cleanup Action and Risk-Based Closure Standards	37320	AMD	04/25/2013	2013-5/110
R315-102	Penalty Policy	37321	AMD	04/25/2013	2013-5/113
R315-301	Solid Waste Authority, Definitions, and General Requirements	37282	5YR	02/13/2013	2013-5/198
R315-301	Solid Waste Authority, Definitions, and General Requirements	37322	AMD	04/25/2013	2013-5/116
R315-302	Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements	37283	5YR	02/13/2013	2013-5/198
R315-302	Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements	37323	AMD	04/25/2013	2013-5/122
R315-303	Landfilling Standards	37284	5YR	02/13/2013	2013-5/199
R315-303	Landfilling Standards	37324	AMD	04/25/2013	2013-5/127
R315-304	Industrial Solid Waste Landfill Requirements	37285	5YR	02/13/2013	2013-5/200
R315-304	Industrial Solid Waste Landfill Requirements	37325	AMD	04/25/2013	2013-5/132
R315-305	Class IV and VI Landfill Requirements	37286	5YR	02/13/2013	2013-5/200
R315-305	Class IV and VI Landfill Requirements	37326	AMD	04/25/2013	2013-5/134
R315-306	Incinerator Standards	37287	5YR	02/13/2013	2013-5/201
R315-306	Incinerator Standards	37327	AMD	04/25/2013	2013-5/136
R315-307	Landtreatment Disposal Standards	37288	5YR	02/13/2013	2013-5/201
R315-307-3	Standards for Maintenance and Operation	37328	AMD	04/25/2013	2013-5/138
R315-308	Ground Water Monitoring Requirements	37289	5YR	02/13/2013	2013-5/202
R315-308	Ground Water Monitoring Requirements	37329	AMD	04/25/2013	2013-5/139
R315-309	Financial Assurance	37290	5YR	02/13/2013	2013-5/202
R315-309	Financial Assurance	37330	AMD	04/25/2013	2013-5/144
R315-310	Permit Requirements for Solid Waste Facilities	37291	5YR	02/13/2013	2013-5/203
R315-310	Permit Requirements for Solid Waste Facilities	37331	AMD	04/25/2013	2013-5/151
R315-311	Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery and Incinerator Facilities	37292	5YR	02/13/2013	2013-5/204
R315-311	Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities	37332	AMD	04/25/2013	2013-5/155
R315-312	Recycling and Composting Facility Standards	37293	5YR	02/13/2013	2013-5/204
R315-312	Recycling and Composting Facility Standards	37333	AMD	04/25/2013	2013-5/157
R315-313	Transfer Stations and Drop Box Facilities	37294	5YR	02/13/2013	2013-5/205
R315-313-2	Transfer Station Standards	37334	AMD	04/25/2013	2013-5/159
R315-314	Facility Standards for Piles Used for Storage and Treatment	37295	5YR	02/13/2013	2013-5/205
R315-314	Facility Standards for Piles Used for Storage and Treatment	37335	AMD	04/25/2013	2013-5/160
R315-315	Special Waste Requirements	37296	5YR	02/13/2013	2013-5/206
R315-315	Special Waste Requirements	37336	AMD	04/25/2013	2013-5/163
R315-316	Infectious Waste Requirements	37297	5YR	02/13/2013	2013-5/206
R315-316	Infectious Waste Requirements	37337	AMD	04/25/2013	2013-5/165
R315-317	Other Processes, Variances, Violations, and Petition for Rule Change	37298	5YR	02/13/2013	2013-5/207
R315-317	Other Processes, Variances, Violations, and Petition for Rule Change	37338	AMD	04/25/2013	2013-5/167

RULES INDEX

R315-317	Other Processes, Variances, Violations, and Petition for Rule Change	37480	NSC	04/29/2013	Not Printed
R315-318	Permit by Rule	37299	5YR	02/13/2013	2013-5/208
R315-318	Permit by Rule	37339	AMD	04/25/2013	2013-5/168
R315-320	Waste Tire Transporter and Recycler Requirements	37300	5YR	02/13/2013	2013-5/208
R315-320	Waste Tire Transporter and Recycler Requirements	37340	AMD	04/25/2013	2013-5/169
<u>Water Quality</u>					
R317-1	Definitions and General Requirements	37851	AMD	09/24/2013	2013-15/41
R317-1-1	Definitions	37366	AMD	08/19/2013	2013-6/32
R317-1-1	Definitions	37366	CPR	08/19/2013	2013-14/92
R317-2	Standards of Quality for Waters of the State	37361	AMD	08/19/2013	2013-6/34
R317-2	Standards of Quality for the Waters of the State	37361	CPR	08/19/2013	2013-14/94
R317-3	Design Requirements for Wastewater Collection, Treatment and Disposal Systems	37852	AMD	09/24/2013	2013-15/45
R317-4	Onsite Wastewater Systems	37575	R&R	09/01/2013	2013-10/27
R317-5	Large Underground Wastewater Disposal Systems	37853	AMD	09/24/2013	2013-15/80
R317-6	Ground Water Quality Protection	37854	AMD	09/24/2013	2013-15/85
R317-6-6	Implementation	37961	AMD	10/24/2013	2013-18/26
R317-7	Underground Injection Control (UIC) Program	37855	AMD	09/24/2013	2013-15/96
R317-8	Utah Pollutant Discharge Elimination System (UPDES)	37581	AMD	07/01/2013	2013-10/59
R317-9	Administrative Procedures	37239	5YR	01/31/2013	2013-4/51
R317-11	Certification Required to Design, Inspect and Maintain Underground Wastewater Disposal Systems, or Conduct Soil Evaluations or Percolation Tests for Underground Wastewater Disposal Systems	37812	AMD	09/01/2013	2013-14/54
R317-12	General Requirements: Tax Exemption for Water Pollution Control Equipment	37856	AMD	09/24/2013	2013-15/107
R317-13	Approvals and Permits for a Water Reuse Project	37240	5YR	01/31/2013	2013-4/51
R317-13	Approvals and Permits for a Water Reuse Project	38065	NSC	11/04/2013	Not Printed
R317-14	Approval in Change in Point of Discharge of POTW	37241	5YR	01/31/2013	2013-4/52
R317-14	Approval of Change in Point of Discharge of POTW	38066	NSC	11/04/2013	Not Printed
R317-15	Water Quality Certification	37362	NEW	08/19/2013	2013-6/44
R317-15	Water Quality Certification	37362	CPR	08/19/2013	2013-14/101
R317-101	Utah Wastewater Project Assistance Program	37448	5YR	03/28/2013	2013-8/54
R317-401	Graywater Systems	37857	AMD	09/24/2013	2013-15/108
R317-550	Rules for Waste Disposal By Liquid Scavenger Operations	38067	NSC	11/06/2013	Not Printed

FINANCIAL INSTITUTIONS

Administration

R331-14	Rule Governing Parties Who Engage in the Business of Issuing and Selling Money Orders, Traveler's Checks, and Other Instruments for the Purpose of Effecting Third-Party Payments	38023	NSC	10/08/2013	Not Printed
R331-20	Designation of Adjudicative Proceedings as Informal	37939	5YR	08/23/2013	2013-18/62
R331-21	Rule Governing Establishment of and Participation in Collective Investment Funds by Trust Companies	37940	5YR	08/23/2013	2013-18/63
R331-24	Accounting for Accrued Uncollected Income by Banks and Industrial Loan Corporations	37941	5YR	08/23/2013	2013-18/63
R331-25	Rule Governing Debt Cancellation and Debt Suspension Agreements Issued by Depository Institutions, Who Are Under the Jurisdiction of the Department of Financial Institutions	38060	5YR	10/11/2013	2013-21/73

Nondepository Lenders

R343-9 Deferred Deposit Lenders Registration with the Nationwide Database 37864 NEW 09/23/2013 2013-16/8

GOVERNOR

Economic Development

R357-2 Rural Broadband Service Fund 37206 EXT 01/16/2013 2013-4/63
 R357-2 Rural Broadband Service Fund 37204 REP 05/01/2013 2013-3/96
 R357-3 Refundable Economic Development Tax Credit 37666 5YR 05/30/2013 2013-12/52
 R357-4 Government Procurement Private Proposal Program 38152 5YR 11/19/2013 2013-24/45
 R357-6 Technology and Life Science Economic Development and Related Tax Credits 37208 AMD 05/01/2013 2013-4/15
 R357-9 Alternative Energy Development Tax Incentives 37207 AMD 05/01/2013 2013-4/16

Economic Development, Pete Suazo Utah Athletic Commission

R359-1 Pete Suazo Utah Athletic Commission Act Rule 37672 AMD 09/13/2013 2013-12/21

Planning and Budget, Inspector General of Medicaid Services (Office of)

R367-1 Office of Inspector General of Medicaid Services 37536 R&R 06/21/2013 2013-10/135

HEALTH

Administration

R380-250 HIPAA Privacy Rule Implementation 37596 5YR 05/06/2013 2013-11/99
 R380-250 HIPAA Privacy Rule Implementation 37679 AMD 08/07/2013 2013-13/122

Center for Health Data, Vital Records and Statistics

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

Children's Health Insurance Program

R382-1 Benefits and Administration 37608 5YR 05/08/2013 2013-11/100
 R382-10 Eligibility 37610 5YR 05/09/2013 2013-11/100
 R382-10 Eligibility 37879 AMD 10/01/2013 2013-16/10

Disease Control and Prevention, Environmental Services

R392-103 Food Handler Training and Certificate 37589 NEW 08/01/2013 2013-11/28
 R392-103 Food Handler Training and Certificate 38063 NSC 11/11/2013 Not Printed
 R392-200 Design, Construction, Operation, Sanitation, and Safety of Schools 37763 AMD 08/26/2013 2013-14/57
 R392-302-3 General Requirements 37072 AMD 02/28/2013 2012-24/26
 R392-510 Utah Indoor Clean Air Act 38080 NSC 11/11/2013 Not Printed
 R392-510-6 Requirements for Smoking Permitted Areas 37454 AMD 07/01/2013 2013-8/8
 R392-700 Indoor Tanning Bed Sanitation 37251 5YR 02/06/2013 2013-5/209

Disease Control and Prevention, Epidemiology

R386-702 Communicable Disease Rule 37345 AMD 05/15/2013 2013-5/173

RULES INDEX

Disease Control and Prevention, Health Promotion

R384-201	School-Based Vision Screening for Students in Public Schools	37028	NEW	02/20/2013	2012-23/42
R384-201	School-Based Vision Screening for Students in Public Schools	37453	AMD	07/01/2013	2013-8/6

Disease Control and Prevention, Immunization

R396-100	Immunization Rule for Students	37806	5YR	06/28/2013	2013-14/105
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Disease Control and Prevention, Laboratory Services

R438-13	Rules for the Certification of Institutions to Obtain Impounded Animals in the State of Utah	37842	5YR	07/12/2013	2013-15/126
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Family Health and Preparedness, Child Care Licensing

R430-6-3	Submission of Background Screening Information	37774	AMD	09/01/2013	2013-14/71
R430-50	Residential Certificate Child Care Personnel	37661	5YR	05/29/2013	2013-12/53
R430-50-7	Personnel	37775	AMD	09/01/2013	2013-14/73
R430-60	Hourly Child Care Centers	37662	5YR	05/29/2013	2013-12/54
R430-60-7	Personnel	37777	AMD	09/01/2013	2013-14/74
R430-70-7	Personnel	37778	AMD	09/01/2013	2013-14/76
R430-90	Licensed Family Child Care	37663	5YR	05/29/2013	2013-12/54
R430-90-7	Personnel	37779	AMD	09/01/2013	2013-14/77
R430-100-7	Personnel	37780	AMD	09/01/2013	2013-14/79

Family Health and Preparedness, Children with Special Health Care Needs

R398-1	Newborn Screening	37381	AMD	07/01/2013	2013-7/28
R398-2	Newborn Hearing Screening	37810	5YR	07/01/2013	2013-14/105
R398-3	Children's Hearing Aid Pilot Program	37899	NEW	10/15/2013	2013-17/31
R398-15	Autism Treatment Account	37809	AMD	08/27/2013	2013-14/70
R398-20	Early Intervention	37827	EXT	07/09/2013	2013-15/135
R398-20	Early Intervention	37892	5YR	08/02/2013	2013-17/50

Family Health and Preparedness, Emergency Medical Services

R426-1	General Definitions	37681	NEW	10/18/2013	2013-13/130
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
R426-2	Air Medical Service Rules	37411	NEW	05/30/2013	2013-7/32
R426-2	Emergency Medical Services Provider Designations, Critical Incident Stress Management and Quality Assurance Reviews	37682	NEW	10/18/2013	2013-13/133
R426-2 (Changed to R426-100)	Air Medical Service Rules	38078	NSC	11/01/2013	Not Printed
R426-3	Licensure	37683	NEW	10/18/2013	2013-13/137
R426-4	Operations	37684	NEW	10/18/2013	2013-13/141
R426-5	Statewide Trauma System Standards	37685	R&R	10/18/2013	2013-13/155
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
R426-6	Emergency Medical Services Competitive Grants Program Rules	37410	NEW	05/30/2013	2013-7/36
R426-6	Emergency Medical Services Competitive Grants Program Rules	37686	R&R	10/18/2013	2013-13/165
R426-7	Emergency Medical Services Prehospital Data System Rules	37687	R&R	10/18/2013	2013-13/168
R426-8	Emergency Medical Services Per Capita Grants Program Rules	37688	R&R	10/18/2013	2013-13/176
R426-9	Statewide Trauma System Standards	37689	NEW	10/18/2013	2013-13/178
R426-11	General Provisions	37690	REP	10/18/2013	2013-13/182
R426-12	Emergency Medical Services Training and Certification Standards	37691	REP	10/18/2013	2013-13/184
R426-13	Emergency Medical Services Provider Designations	37692	REP	10/18/2013	2013-13/185
R426-14	Ambulance Service and Paramedic Service Licensure	37693	REP	10/18/2013	2013-13/187
R426-15	Licensed and Designated Provider Operations	37694	REP	10/18/2013	2013-13/191

R426-16	Emergency Medical Services Ambulance Rates and Charges	37695	REP	10/18/2013	2013-13/191
<u>Family Health and Preparedness, Licensing</u>					
R432-1	General Health Care Facility Rules	37912	5YR	08/12/2013	2013-17/51
R432-2	General Licensing Provisions	37913	5YR	08/12/2013	2013-17/52
R432-3	General Health Care Facility Rules Inspection and Enforcement	37209	AMD	04/24/2013	2013-4/17
R432-3	General Health Care Facility Rules Inspection and Enforcement	37914	5YR	08/12/2013	2013-17/52
R432-4	General Construction	37915	5YR	08/12/2013	2013-17/53
R432-5	Nursing Facility Construction	37916	5YR	08/12/2013	2013-17/53
R432-6	Assisted Living Facility General Construction	37917	5YR	08/12/2013	2013-17/54
R432-16	Hospice Inpatient Facility Construction	37281	5YR	02/11/2013	2013-5/209
R432-31	Life with Dignity Order	37442	AMD	06/07/2013	2013-8/12
R432-35	Background Screening -- Health Facilities	37441	5YR	03/25/2013	2013-8/55
<u>Family Health and Preparedness, Primary Care and Rural Health</u>					
R434-40	Utah Health Care Workforce Financial Assistance Program Rules	38192	EXD	12/16/2013	Not Printed
<u>Health Care Financing</u>					
R410-14	Administrative Hearing Procedures	37045	AMD	01/09/2013	2012-23/44
R410-14	Administrative Hearing Procedures	37906	AMD	10/08/2013	2013-17/32
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-1-5	Incorporations by Reference	37122	AMD	03/01/2013	2013-2/18
R414-1-5	Incorporations by Reference	37422	AMD	05/29/2013	2013-8/10
R414-1-5	Incorporations by Reference	37715	AMD	08/07/2013	2013-13/123
R414-1-5	Incorporations by Reference	37905	EMR	08/08/2013	2013-17/41
R414-1-5	Incorporations by Reference	37976	AMD	11/07/2013	2013-19/64
R414-1-30	Governing Hierarchy	37546	AMD	07/01/2013	2013-10/142
R414-2A-6	Service Coverage	37898	AMD	10/11/2013	2013-17/34
R414-6	Reduction in Certain Targeted Case Management Services	37391	5YR	03/08/2013	2013-7/65
R414-9	Federally Qualified Health Centers	38160	5YR	12/02/2013	2013-24/45
R414-11	Podiatry Services	37578	AMD	07/01/2013	2013-10/143
R414-14A-26	Payment for Nursing Facility, ICF/ID, and Freestanding Inpatient Hospice Unit Room and Board	37656	AMD	07/22/2013	2013-12/23
R414-27	Medicaid Certification of Nursing Care Facilities	37177	5YR	01/09/2013	2013-3/109
R414-29	Client Review/Education and Restriction Policy	37085	AMD	05/16/2013	2012-24/28
R414-29	Client Review/Education and Restriction Policy	37085	CPR	05/16/2013	2013-7/49
R414-42	Telehealth Home Health Services	38014	5YR	09/17/2013	2013-20/50
R414-51	Dental, Orthodontia	37559	5YR	04/30/2013	2013-10/213
R414-51	Dental, Orthodontia	37696	AMD	08/14/2013	2013-13/128
R414-52	Optometry Services	37580	5YR	05/01/2013	2013-10/214
R414-53	Eyeglasses Services	37591	5YR	05/03/2013	2013-11/101
R414-55	Medicaid Policy for Hospital Emergency Department Copayment Procedures	37807	5YR	06/28/2013	2013-14/106
R414-58	Children's Organ Transplants	38161	5YR	12/02/2013	2013-24/46
R414-70	Medical Supplies, Durable Medical Equipment, and Prosthetic Devices	37528	AMD	07/01/2013	2013-10/144
R414-99	Chiropractic Services	38162	5YR	12/02/2013	2013-24/46
R414-301	Medicaid General Provisions	37221	5YR	01/23/2013	2013-4/52
R414-301	Medicaid General Provisions	37880	AMD	10/01/2013	2013-16/11
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
R414-303	Coverage Groups	37301	AMD	04/17/2013	2013-5/179
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

RULES INDEX

R414-308-4	Verification of Eligibility and Information Exchange	37881	AMD	10/01/2013	2013-16/15
R414-401-3	Assessment	37576	AMD	07/01/2013	2013-10/146
R414-506	Hospital Provider Assessments	37577	AMD	07/01/2013	2013-10/147
R414-508	Requirements for Transfer of Bed Licenses	37665	5YR	05/30/2013	2013-12/53
R414-509	Medicaid Autism Waiver Open Enrollment Process	37548	EMR	05/01/2013	2013-10/209
R414-509	Medicaid Autism Waiver Open Enrollment Process	37549	AMD	06/28/2013	2013-10/148

HERITAGE AND ARTS

Arts and Museums, Museum Services

R452-200	Office Grants Program	37846	EMR	07/15/2013	2013-15/121
----------	-----------------------	-------	-----	------------	-------------

HUMAN RESOURCE MANAGEMENT

Administration

R477-1-1	Definitions	37561	AMD	07/01/2013	2013-10/150
R477-2	Administration	37562	AMD	07/01/2013	2013-10/155
R477-4	Filling Positions	37563	AMD	07/01/2013	2013-10/157
R477-5	Employee Status and Probation	37564	AMD	07/01/2013	2013-10/159
R477-6	Compensation	37565	AMD	07/01/2013	2013-10/160
R477-7	Leave	37566	AMD	07/01/2013	2013-10/163
R477-8	Working Conditions	37567	AMD	07/01/2013	2013-10/167
R477-9	Employee Conduct	37568	AMD	07/01/2013	2013-10/170
R477-10-3	Employee Development and Training	37569	AMD	07/01/2013	2013-10/172
R477-11	Discipline	37570	AMD	07/01/2013	2013-10/173
R477-12	Separations	37571	AMD	07/01/2013	2013-10/175
R477-13	Volunteer Programs	37572	AMD	07/01/2013	2013-10/177
R477-14	Substance Abuse and Drug-Free Workplace	37573	AMD	07/01/2013	2013-10/178
R477-15	Workplace Harassment Prevention Policy and Procedure	37574	AMD	07/01/2013	2013-10/180

HUMAN SERVICES

Administration

R495-879	Parental Support for Children in Care	37983	5YR	09/10/2013	2013-19/150
R495-881	Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule Implementation	37525	5YR	04/15/2013	2013-9/34

Administration, Administrative Services, Licensing

R501-7	Child Placing Adoption Agencies	37900	AMD	11/27/2013	2013-17/35
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Aging and Adult Services

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
R510-401-6	Program Content	38070	NSC	11/06/2013	Not Printed

Child and Family Services

R512-41	Qualifying Adoptive Families and Adoption Placement	37645	AMD	07/22/2013	2013-12/24
R512-52	Drug Testing Copayment for Parents of Children in Child and Family Services Custody	37527	REP	06/21/2013	2013-10/182
R512-100	In-Home Services	37501	5YR	04/08/2013	2013-9/35
R512-200	Child Protective Services, Intake Services	37502	5YR	04/08/2013	2013-9/35
R512-201	Child Protective Services, Investigation Services	37503	5YR	04/08/2013	2013-9/36
R512-202	Child Protective Services, General Allegation Categories	37504	5YR	04/08/2013	2013-9/36
R512-300	Out-of-Home Services	37639	5YR	05/16/2013	2013-12/55
R512-301	Out-of-Home Services, Responsibilities Pertaining to a Parent or Guardian	37640	5YR	05/16/2013	2013-12/55
R512-302	Out-of-Home Services, Responsibilities Pertaining to an Out-of-Home Caregiver	37641	5YR	05/16/2013	2013-12/56

R512-302	Out-of-Home Services, Responsibilities Pertaining to an Out-of-Home Caregiver	37646	AMD	07/22/2013	2013-12/27
R512-305	Out-of-Home Services, Transition to Adult Services	37642	5YR	05/16/2013	2013-12/56
R512-309	Out-of-Home Services, Foster Parent Reimbursement of Motor Vehicle Insurance Coverage for Youth in Foster Care	37931	5YR	08/15/2013	2013-17/54
R512-500	Kinship Services, Placement and Background Screening	37505	5YR	04/08/2013	2013-9/37
<u>Juvenile Justice Services</u>					
R547-1	Residential and Nonresidential, Non-Secure Community Program Standards	37986	REP	11/27/2013	2013-19/70
<u>Recovery Services</u>					
R527-5-3	Request for Release of Information	37668	AMD	07/22/2013	2013-12/30
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	2013-9/37
R527-920	Mandatory Disbursement to Obligee Through Electronic Funds Transfer	37550	5YR	04/29/2013	2013-10/214
<u>Services for People with Disabilities</u>					
R539-1	Eligibility	37110	AMD	02/13/2013	2013-1/2
R539-1-3	Definitions	37245	AMD	04/18/2013	2013-4/21
R539-2	Service Coordination	37111	AMD	02/13/2013	2013-1/8
R539-3	Rights and Protections	37163	AMD	05/10/2013	2013-2/21
R539-3	Rights and Protections	37163	CPR	05/10/2013	2013-7/51
R539-15	Time-Limited Respite Care Program	37918	5YR	08/13/2013	2013-17/55
R539-15	Time-Limited Respite Care Program	37919	REP	10/10/2013	2013-17/36
<u>Substance Abuse and Mental Health, State Hospital</u>					
R525-2	Patient Rights	37211	5YR	01/23/2013	2013-4/56
R525-2	Patient Rights	37967	NSC	09/30/2013	Not Printed
R525-3	Medication Treatment of Patients	37224	5YR	01/24/2013	2013-4/56
R525-3	Medication Treatment of Patients	37968	NSC	09/30/2013	Not Printed
R525-4	Visitors	37210	5YR	01/23/2013	2013-4/57
R525-4	Visitors	37969	AMD	11/07/2013	2013-19/69
R525-5	Background Checks	37214	5YR	01/23/2013	2013-4/57
R525-5	Background Checks	37970	NSC	09/30/2013	Not Printed
R525-6	Prohibited Items and Devices	37212	5YR	01/23/2013	2013-4/58
R525-6	Prohibited Items and Devices	37971	NSC	09/30/2013	Not Printed
R525-7	Complaints/Suggestions/Concerns	37213	5YR	01/23/2013	2013-4/58
R525-7	Complaints/Suggestions/Concerns	37972	NSC	09/30/2013	Not Printed
R525-8	Forensic Mental Health Facility	37973	NSC	09/30/2013	Not Printed
INSURANCE					
<u>Administration</u>					
R590-93	Replacement of Life Insurance and Annuities	37515	AMD	06/11/2013	2013-9/12
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
R590-102-17	Dedicated Fees	37379	AMD	05/14/2013	2013-6/47
R590-142	Continuing Education Rule	37882	AMD	09/23/2013	2013-16/17

RULES INDEX

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
R590-160	Administrative Proceedings	38034	5YR	09/30/2013	2013-20/51
R590-160-5	Rules Applicable to All Proceedings	37719	AMD	08/28/2013	2013-13/193
R590-161	Disability Income Policy Disclosure	38025	5YR	09/27/2013	2013-20/51
R590-162	Actuarial Opinion and Memorandum Rule	38026	5YR	09/27/2013	2013-20/52
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
R590-186	Bail Bond Surety Business	37840	5YR	07/12/2013	2013-15/127
R590-218	Permitted Language for Reservation of Discretion Clauses	37176	5YR	01/09/2013	2013-3/113
R590-219	Credit Scoring	37600	5YR	05/07/2013	2013-11/101
R590-222	Life Settlements	37598	5YR	05/07/2013	2013-11/102
R590-222-3	Incorporation by Reference	37838	AMD	09/23/2013	2013-15/110
R590-222-3	Incorporation by Reference	38050	NSC	10/30/2013	Not Printed
R590-223	Rule to Recognize the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits	37599	5YR	05/07/2013	2013-11/103
R590-226	Submission of Life Insurance Filings	37861	AMD	10/16/2013	2013-16/23
R590-227	Submission of Annuity Filings	37862	AMD	10/16/2013	2013-16/28
R590-243	Commercial Motor Vehicle Insurance Coverage	37172	5YR	01/07/2013	2013-3/113
R590-244	Individual and Agency Licensing Requirements	37883	AMD	09/23/2013	2013-16/31
R590-245	Self-Service Storage Insurance	38038	5YR	10/01/2013	2013-20/52
R590-246	Professional Employer Organization (PEO) License Application Rule	37911	5YR	08/09/2013	2013-17/56
R590-247	Universal Health Insurance Application Rule	37768	5YR	06/26/2013	2013-14/107
R590-247	Universal Health Insurance Application Rule	37849	AMD	09/10/2013	2013-15/110
R590-248	Mandatory Fraud Reporting Rule	38199	5YR	12/23/2013	Not Printed
R590-249	Secondary Medical Condition Exclusion	38200	5YR	12/23/2013	Not Printed
R590-250	PEO Assurance Organization Designation	37907	5YR	08/09/2013	2013-17/56
R590-251	Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values Rule	37909	5YR	08/09/2013	2013-17/57
R590-267	Personal Injury Protection Relative Value Study Rule	37960	NEW	11/18/2013	2013-18/35
<u>Title and Escrow Commission</u>					
R592-2-3	Definitions	38117	NSC	12/12/2013	Not Printed
R592-2-7	Imposition of Penalties	37588	LNR	05/01/2013	2013-11/107
R592-5-3	Definitions	38118	NSC	12/12/2013	Not Printed
R592-6	Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business	38119	NSC	12/12/2013	Not Printed
R592-8	Application Process for an Attorney Exemption for Title Agency Licensing	38120	NSC	12/12/2013	Not Printed
R592-9	Title Insurance Recovery, Education, and Research Fund Assessment Rule	38121	NSC	12/12/2013	Not Printed
R592-10	Title Insurance Regulation Assessment for Title Insurance Agencies and Title Insurers	37841	5YR	07/12/2013	2013-15/128
R592-10	Title Insurance Regulation Assessment for Title Insurance Agencies and Title Insurers	38122	NSC	12/12/2013	Not Printed
R592-14-2	Purpose and Scope	38123	NSC	12/12/2013	Not Printed
R592-15	Submission of a Schedule of Minimum Charges for Escrow Services	38124	NSC	12/12/2013	Not Printed
JUDICIAL CONDUCT COMMISSION					
<u>Administration</u>					
R595-3	Procedure	37843	AMD	09/18/2013	2013-15/112
JUDICIAL PERFORMANCE EVALUATION COMMISSION					
<u>Administration</u>					
R597-1	General Provisions	37383	AMD	05/14/2013	2013-7/37
R597-3	Judicial Performance Evaluations	37382	AMD	05/14/2013	2013-7/38

LABOR COMMISSION

Adjudication

R602-4	Procedures for Termination of Temporary Total Disability Compensation Pursuant to Reemployment Under Section 34A-2-410.5	38115	5YR	11/08/2013	2013-23/64
R602-5	Procedures for Resolving Disputes Regarding "Cooperation" and "Diligent Pursuit" Under Subsection 34A-2-413(6)(e)(iii) and Subsection 34A-2-413(9) Consistent with Utah Administrative Code Subsection R612-1-10(D) (4)	38112	5YR	11/08/2013	2013-23/65
R602-5	Procedures for Resolving Disputes Regarding "Cooperation" and "Diligent Pursuit" Under Subsection 34A-2-413(6)(e)(iii) and Subsection 34A-2-413(9) Consistent with Utah Administrative Code Subsection R612-1-10(D) (4)	38143	NSC	12/12/2013	Not Printed
R602-6	Procedures Applicable for Approval of Settlement Agreements in Workers' Compensation	38108	5YR	11/08/2013	2013-23/65

Administration

R600-1	Declaratory Orders	37492	5YR	04/05/2013	2013-9/38
R600-2	Operations	37621	AMD	07/08/2013	2013-11/33
R600-2	Operations	37866	AMD	09/23/2013	2013-16/36

Boiler and Elevator Safety

R616-1	Coal, Gilsonite, or other Hydrocarbon Mining Certification	37493	5YR	04/05/2013	2013-9/38
R616-1	Coal, Gilsonite, or other Hydrocarbon Mining Certification	37520	NSC	04/29/2013	Not Printed

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
R612-200-1	Acceptance / Denial of a Claim	37622	AMD	07/08/2013	2013-11/34
R612-300	Workers' Compensation Rules - Medical Care	37126	NEW	02/25/2013	2013-2/66
R612-300	Workers' Compensation Rules - Medical Care	38036	R&R	11/22/2013	2013-20/26
R612-400	Workers' Compensation Insurance, Self-Insurance and Waivers	37127	NEW	02/25/2013	2013-2/76

RULES INDEX

R612-400-5	Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund	38072	AMD	12/23/2013	2013-22/146
R612-500	Procedural Guidelines for the Reemployment Act	37128	NEW	02/25/2013	2013-2/79

LIEUTENANT GOVERNOR

Administration

R622-1	Adjudicative Proceedings	37910	5YR	08/09/2013	2013-17/57
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NATURAL RESOURCES

Administration

R634-1	Americans With Disabilities Complaint Procedure	37219	5YR	01/23/2013	2013-4/59
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Forestry, Fire and State Lands

R652-7	Public Petitions for Declaratory Orders	37751	5YR	06/19/2013	2013-14/117
R652-70-2300	Management of Bear Lake Sovereign Lands	37623	AMD	07/08/2013	2013-11/46
R652-110	Off-Highway Vehicle Designations	37752	5YR	06/19/2013	2013-14/118

Oil, Gas and Mining Board

R641-100-600	Electronic Meetings	37873	AMD	09/26/2013	2013-16/37
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Oil, Gas and Mining: Administration

R642-200	Applicability	37472	5YR	04/02/2013	2013-9/39
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Oil, Gas and Mining: Coal

R645-101	Restrictions on State Employees	37473	5YR	04/02/2013	2013-9/39
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	2013-9/40
R645-401	Inspection and Enforcement: Civil Penalties	37475	5YR	04/02/2013	2013-9/40

Oil, Gas and Mining: Non-Coal

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	2013-9/41
R647-7	Inspection and Enforcement: Civil Penalties	37477	5YR	04/02/2013	2013-9/42
R647-8	Inspection and Enforcement: Individual Civil Penalties	37478	5YR	04/02/2013	2013-9/42

Oil, Gas and Mining: Oil and Gas

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	2013-9/43
R649-9	Waste Management and Disposal	37545	R&R	07/01/2013	2013-10/183
R649-9-8	Bonding of Disposal Facilities	37826	NSC	07/26/2013	Not Printed
R649-9-10	Construction and Inspection Requirements for Disposal Facilities	37825	NSC	07/26/2013	Not Printed

Parks and Recreation

R651-204	Regulating Waterway Markers	37601	AMD	07/08/2013	2013-11/36
R651-214	Temporary Registration	37602	AMD	07/08/2013	2013-11/37
R651-216-8	Use of Non-Navigational Lights	37603	AMD	07/08/2013	2013-11/39
R651-224	Towed Devices	37242	AMD	04/12/2013	2013-4/22
R651-407	Off-Highway Vehicle Advisory Council	37519	5YR	04/12/2013	2013-9/43
R651-408	Off-Highway Vehicle Education Curriculum Standards	36856	REP	01/15/2013	2012-20/77
R651-601	Definitions as Used in These Rules	37762	5YR	06/25/2013	2013-14/107
R651-602	Aircraft and Powerless Flight	37764	5YR	06/25/2013	2013-14/108

R651-603	Animals	37765	5YR	06/25/2013	2013-14/108
R651-604	Audio Devices	37766	5YR	06/25/2013	2013-14/109
R651-605	Begging and Soliciting	37767	5YR	06/25/2013	2013-14/109
R651-606	Camping	37771	5YR	06/27/2013	2013-14/110
R651-607	Disorderly Conduct	37772	5YR	06/27/2013	2013-14/110
R651-608	Events of Special Uses	37776	5YR	06/27/2013	2013-14/111
R651-609	Explosives and Fireworks	37790	5YR	06/27/2013	2013-14/111
R651-610	Expulsion	37791	5YR	06/27/2013	2013-14/112
R651-611	Fee Schedule	37625	AMD	07/08/2013	2013-11/40
R651-613	Fires	37792	5YR	06/27/2013	2013-14/112
R651-614	Fishing, Hunting and Trapping	37793	5YR	06/27/2013	2013-14/113
R651-614	Fishing, Hunting and Trapping	37585	AMD	07/08/2013	2013-11/45
R651-615	Motor Vehicle Use	37794	5YR	06/27/2013	2013-14/113
R651-616	Organized Sports	37798	5YR	06/27/2013	2013-14/114
R651-617	Permit Violation	37800	5YR	06/27/2013	2013-14/114
R651-618	Picnicking	37801	5YR	06/27/2013	2013-14/115
R651-619	Possession of Alcoholic Beverages or Controlled Substances	37802	5YR	06/27/2013	2013-14/115
R651-620	Protection of Resources Park System Property	37803	5YR	06/27/2013	2013-14/116
R651-621	Reports of Injury or Damage	37804	5YR	06/27/2013	2013-14/116
R651-622	Rock Climbing	37813	5YR	07/02/2013	2013-15/128
R651-623	Sale or Distribution of Printed Material	37814	5YR	07/05/2013	2013-15/129
R651-624	Sanitation	37815	5YR	07/05/2013	2013-15/129
R651-625	Shirts and Shoes	37816	5YR	07/05/2013	2013-15/130
R651-626	Skating, Skateboards and Motorized Transportation Devices	37817	5YR	07/05/2013	2013-15/130
R651-627	Swimming	37818	5YR	07/05/2013	2013-15/131
R651-628	Trails and Walks	37819	5YR	07/05/2013	2013-15/131
R651-629	Unattended Property	37820	5YR	07/05/2013	2013-15/132
R651-630	Unsupervised Children	37761	5YR	06/25/2013	2013-14/117
R651-631	Winter Sports	37821	5YR	07/05/2013	2013-15/132
R651-632	Enforcement	37822	5YR	07/05/2013	2013-15/133
R651-633	Special Closures or Restrictions	37205	AMD	03/14/2013	2013-3/100
R651-633	Special Closures or Restrictions	37823	5YR	07/05/2013	2013-15/133
R651-634	Nonresident OHV User Permits and Fees	38085	AMD	12/26/2013	2013-22/147
<u>Water Rights</u>					
R655-5	Maps Submitted to the Division of Water Rights	37388	5YR	03/07/2013	2013-7/66
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
<u>Wildlife Resources</u>					
R657-3	Collection, Importation, Transportation, and Possession of Animals	37384	5YR	03/05/2013	2013-7/67
R657-9	Taking Waterfowl, Common Snipe and Coot	37982	AMD	11/07/2013	2013-19/88
R657-10	Taking Cougar	37978	AMD	11/07/2013	2013-19/90
R657-11	Taking Furbearers	37977	AMD	11/07/2013	2013-19/91
R657-12	Hunting and Fishing Accommodations for People with Disabilities	37225	AMD	04/23/2013	2013-4/24
R657-13	Taking Fish and Crayfish	37069	AMD	01/22/2013	2012-24/29
R657-19	Taking Nongame Mammals	37893	5YR	08/05/2013	2013-17/58
R657-20	Falconry	37233	AMD	04/23/2013	2013-4/26
R657-20	Falconry	37534	NSC	05/17/2013	Not Printed
R657-34	Procedures for Confirmation of Ordinances on Hunting Closures	37592	5YR	05/06/2013	2013-11/103
R657-37	Cooperative Wildlife Management Units for Big Game or Turkey	37097	AMD	02/07/2013	2013-1/11
R657-37	Cooperative Wildlife Management Units for Big Game or Turkey	37593	5YR	05/06/2013	2013-11/104
R657-42	Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents	37594	5YR	05/06/2013	2013-11/104
R657-44	Big Game Depredation	37643	AMD	07/22/2013	2013-12/31
R657-45	Wildlife License, Permit, and Certificate of Registration Forms	37595	5YR	05/06/2013	2013-11/105

RULES INDEX

R657-52	Commercial Harvesting of Brine Shrimp and Brine Shrimp Eggs	37980	AMD	11/07/2013	2013-19/93
R657-53	Amphibian and Reptile Collection, Importation, Transportation and Possession	37667	5YR	05/30/2013	2013-12/57
R657-57	Division Variance Rule	37894	5YR	08/05/2013	2013-17/58
R657-58	Fishing Contests and Clinics	37203	5YR	01/15/2013	2013-3/114
R657-59	Private Fish Ponds	37895	5YR	08/05/2013	2013-17/59
R657-60	Aquatic Invasive Species Interdiction	37896	5YR	08/05/2013	2013-17/59
R657-60	Aquatic Invasive Species Interdiction	37981	AMD	11/07/2013	2013-19/96
R657-61	Valuation of Real Property Interests for Purposes of Acquisition or Disposal	38148	5YR	11/18/2013	2013-24/47
R657-64	Predator Control Incentives	37609	AMD	07/08/2013	2013-11/48
R657-65	Urban Deer Control	37716	NEW	08/08/2013	2013-13/195
R657-66	Military Installation Permit Program	37979	NEW	11/07/2013	2013-19/98

PARDONS (BOARD OF)

Administration

R671-312	Commutation Hearings for Death Penalty Cases	37341	5YR	02/15/2013	2013-5/212
R671-312	Commutation Hearings for Death Penalty Cases	37438	AMD	05/22/2013	2013-8/15
R671-312A	Commutation Procedures Applicable to Persons Sentenced to Death Before April 26, 1992	37439	NEW	05/22/2013	2013-8/18
R671-312B	Commutation Procedures Applicable to Persons Sentenced to Death After April 26, 1992	37440	NEW	05/22/2013	2013-8/20
R671-315	Pardons	37455	AMD	05/22/2013	2013-8/23
R671-509	Parole Progress / Violation Reports	37342	5YR	02/15/2013	2013-5/212
R671-509	Parole Progress / Violation Reports	37456	AMD	05/22/2013	2013-8/25
R671-510	Evidence for Issuance of Warrants	37343	5YR	02/15/2013	2013-5/212
R671-510	Evidence for Issuance of Warrants	37457	AMD	05/22/2013	2013-8/26
R671-512	Execution of the Warrant	37344	5YR	02/15/2013	2013-5/213
R671-512	Execution of the Warrant	37458	AMD	05/22/2013	2013-8/27
R671-513	Expedited Determination on Parolee Challenge to Probable Cause	37346	5YR	02/15/2013	2013-5/214
R671-513	Expedited Determination of Parolee Challenge to Probable Cause	37459	AMD	05/22/2013	2013-8/28
R671-514	Waiver and Pleas of Guilt	37347	5YR	02/15/2013	2013-5/214
R671-514	Waiver and Pleas of Guilt	37460	AMD	05/22/2013	2013-8/29
R671-515	Timeliness of Parole Revocation Hearings	37348	5YR	02/15/2013	2013-5/215
R671-515	Timeliness of Parole Revocation Hearings	37461	AMD	05/22/2013	2013-8/31
R671-516	Parole Revocation Hearings	37349	5YR	02/15/2013	2013-5/215
R671-516	Parole Revocation Hearings	37462	AMD	05/22/2013	2013-8/32
R671-517	Evidentiary Hearings and Proceedings	37350	5YR	02/15/2013	2013-5/216
R671-517	Evidentiary Hearings and Proceedings	37463	AMD	05/22/2013	2013-8/33
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
R671-519	Proceedings When Criminal Charges Result in Acquittal	37464	AMD	05/22/2013	2013-8/35
R671-520	Treatment of Confidential Testimony	37353	5YR	02/15/2013	2013-5/217
R671-520	Treatment of Confidential Testimony	37465	AMD	05/22/2013	2013-8/36
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
R686-100	Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings	38008	R&R	11/07/2013	2013-19/101
R686-100-1	Definitions	38127	NSC	12/12/2013	Not Printed
R686-101	Alcohol Related Offenses	37637	5YR	05/16/2013	2013-12/57

R686-101 (Changed to R686-104)	Alcohol Related Offenses	37674	AMD	09/10/2013	2013-12/33
R686-101	UPPAC Hearing Procedures and Reports	38009	NEW	11/07/2013	2013-19/117
R686-102	Drug Related Offenses	37638	5YR	05/16/2013	2013-12/58
R686-102 (Changed to R686-105)	Drug Related Offenses	37675	AMD	09/10/2013	2013-12/34
R686-102	Request for Licensure Reinstatement and Reinstatement Procedures	38010	NEW	11/07/2013	2013-19/124
R686-103	Utah Professional Practices Advisory Commission Review of License Due to Background Check Offenses	38011	AMD	11/07/2013	2013-19/127
R686-104 (Changed to R686-103)	Utah Professional Practices Advisory Commission Review of License Due to Background Check Offenses	37863	NSC	09/10/2013	Not Printed

PUBLIC SAFETY

Criminal Investigations and Technical Services, Criminal Identification

R722-300	Concealed Firearm Permit and Instructor Rule	37606	AMD	07/08/2013	2013-11/50
R722-310	Regulation of Bail Bond Recovery and Enforcement Agents	37605	AMD	07/08/2013	2013-11/55
R722-320	Undercover Identification	37226	5YR	01/24/2013	2013-4/61
R722-320	Undercover Identification	37227	NSC	02/15/2013	Not Printed
R722-330	Licensing of Private Investigators	37604	AMD	07/08/2013	2013-11/58
R722-340	Emergency Vehicles	37532	5YR	04/22/2013	2013-10/215
R722-340 (Changed to R698-7)	Emergency Vehicles	37590	NSC	05/31/2013	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	2013-9/44
R722-900	Review and Challenge of Criminal Record	37769	R&R	08/21/2013	2013-14/81

Driver License

R708-10	Classified License System	37933	R&R	10/22/2013	2013-18/36
R708-21	Third Party Testing	37614	EMR	05/14/2013	2013-11/89
R708-21	Third-Party Testing	37717	AMD	08/08/2013	2013-13/198
R708-30	Motorcycle Rider Training Schools	37613	5YR	05/13/2013	2013-11/105
R708-32	Uninsured Motorist Database	37554	R&R	06/30/2013	2013-10/192
R708-33	Electric Assisted Bicycle Headgear	37612	REP	07/08/2013	2013-11/49
R708-43	YES or NO Notification	38022	R&R	11/21/2013	2013-20/44
R708-45	Renewal or Duplicate License for a Utah Resident Temporarily Residing Out of State	37657	EMR	05/23/2013	2013-12/45
R708-45	Renewal or Duplicate License for a Utah Resident Temporarily Residing Out of State	37718	R&R	08/08/2013	2013-13/202
R708-49	Temporary Identification Card	37555	NEW	06/30/2013	2013-10/194
R708-49	Temporary Identification Card	38037	NSC	10/08/2013	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
R710-13	Reduced Cigarette Ignition Propensity and Firefighter Protection Act	38131	5YR	11/13/2013	2013-23/66

Homeland Security

R704-1	Search and Rescue Financial Assistance Program	37170	NSC	01/23/2013	Not Printed
R704-2	Statewide Mutual Aid Act Activation	37117	NEW	02/25/2013	2013-2/83

Peace Officer Standards and Training

R728-501	Career Development Courses	37805	5YR	06/28/2013	2013-14/118
R728-503	Utah Minimum Standards for All Emergency Pursuit Policies to be Adopted by Public Agencies that Operate Authorized Emergency Pursuit Vehicles	38128	5YR	11/12/2013	2013-23/66

RULES INDEX

PUBLIC SERVICE COMMISSION

Administration

R746-110	Uncontested Matters to be Adjudicated Informally	37757	5YR	06/24/2013	2013-14/119
R746-200	Residential Utility Service Rules for Electric, Gas, Water, and Sewer Utilities	37508	AMD	11/01/2013	2013-9/18
R746-200	Residential Utility Service Rules for Electric, Gas, Water, and Sewer Utilities	37508	CPR	11/01/2013	2013-16/55
R746-200-7	Termination of Service	37932	NSC	11/01/2013	Not Printed
R746-210	Utility Service Rules Applicable Only to Electric Utilities	37759	5YR	06/24/2013	2013-14/119
R746-240	Telecommunication Service Rules	37760	5YR	06/24/2013	2013-14/120
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
R746-340	Service Quality for Telecommunications Corporations	37758	5YR	06/24/2013	2013-14/120
R746-343-15	Surcharge	37449	AMD	07/01/2013	2013-8/37
R746-344	Filing Requirements for Telephone Corporations with Less than 5,000 Access Line Subscribers	37869	5YR	07/31/2013	2013-16/67
R746-345	Pole Attachments	37870	5YR	07/31/2013	2013-16/67
R746-347	Extended Area Service (EAS)	37386	5YR	03/05/2013	2013-7/68
R746-360	Universal Public Telecommunications Service Support Fund	38136	5YR	11/13/2013	2013-23/67
R746-402	Rules Governing Reports of Accidents by Electric, Gas, Telephone, and Water Utilities	37452	5YR	03/28/2013	2013-8/68
R746-404	Regulation of Promotional Programs of Electric and Gas Public Utilities	37872	5YR	07/31/2013	2013-16/68
R746-405	Filing of Tariffs for Gas, Electric, Telephone, and Water Utilities	37450	5YR	03/28/2013	2013-8/69
R746-405	Filing of Tariffs for Gas, Electric, Telephone, and Water Utilities	37447	AMD	06/20/2013	2013-8/38
R746-405-2	Format and Construction of Tariffs	37908	AMD	11/07/2013	2013-17/37
R746-406	Advertising by Electric and Gas Utilities	37871	5YR	07/31/2013	2013-16/68
R746-500	Americans with Disabilities Act Complaint Procedure	37868	5YR	07/31/2013	2013-16/69
R746-600	Postretirement Benefits other than Pensions	37985	5YR	09/11/2013	2013-19/151

REGENTS (BOARD OF)

Administration

R765-136	Language Proficiency in the Utah System of Higher Education	37551	5YR	04/29/2013	2013-10/216
R765-254	Secure Area Hearing Rooms	37552	5YR	04/29/2013	2013-10/216
R765-555	Policy on Colleges and Universities Providing Facilities, Goods and Services in Competition with Private Enterprise	37553	5YR	04/29/2013	2013-10/217
R765-604	New Century Scholarship	37586	AMD	07/08/2013	2013-11/61
R765-605	Utah Centennial Opportunity Program for Education	37539	5YR	04/24/2013	2013-10/217
R765-605	Utah Centennial Opportunity Program for Education	37547	AMD	06/24/2013	2013-10/195
R765-606	Utah Leveraging Educational Assistance Partnership Program	37540	5YR	04/24/2013	2013-10/218
R765-609	Regents' Scholarship	37587	AMD	07/08/2013	2013-11/65

University of Utah, Administration

R805-1	Operating Regulations for Bicycles, Skateboards and Scooters	37407	5YR	03/12/2013	2013-7/69
R805-1	Operating Regulations for Bicycles, Skateboards and Scooters	37770	AMD	08/21/2013	2013-14/85
R805-2	Government Records Access and Management Act Procedures	37824	5YR	07/08/2013	2013-15/134

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

SCHOOL AND INSTITUTIONAL TRUST LANDS

Administration

R850-5-200	Payments	37934	AMD	10/22/2013	2013-18/38
R850-61	Native American Grave Protection and Repatriation	38138	5YR	11/13/2013	2013-23/68
R850-110	Motor Vehicle Travel Designations	38181	5YR	12/16/2013	Not Printed

SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTH.

Administration

R856-1	Formation and Funding of Utah Science Technology and Research Innovation Teams	37963	NSC	09/30/2013	Not Printed
R856-2	Distribution of Utah Science Technology and Research Commercialization Revenues	37964	NSC	09/30/2013	Not Printed

TAX COMMISSION

Administration

R861-1A-9	State Board of Equalization Procedures Pursuant to Utah Code Ann. Sections 59-2-212, 59-2-1004, and 59-2-1006	38016	NSC	10/08/2013	Not Printed
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-29	Decisions, Orders, and Reconsideration Pursuant to Utah Code Ann. Sections 59-1-205 and 63G-4-302	37935	AMD	10/24/2013	2013-18/40
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

Motor Vehicle Enforcement

R877-23V-21	Automated License Plate Recognition System Pursuant to Utah Code Ann. Section 41-3-105	37699	AMD	08/22/2013	2013-13/205
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Property Tax

R884-24P-29	Taxable Household Furnishings Pursuant to Utah Code Ann. Section 59-2-1113	38057	AMD	01/01/2014	2013-21/23
R884-24P-33	2013 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301	37936	AMD	10/24/2013	2013-18/41

RULES INDEX

R884-24P-53	2013 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515	38058	AMD	01/01/2014	2013-21/24
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

TRANSPORTATION

Administration

R907-1-6	Administrative Procedures for Motor Carrier Actions	38055	AMD	12/09/2013	2013-21/29
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
R907-64	Longitudinal and Wireless Access to Interstate System Rights-of-Way for Installation of Telecommunication Facilities	37951	5YR	09/03/2013	2013-18/64
R907-65	Compensation Schedule for Longitudinal Access to Interstate Highway Rights-of-Way for Installation of Telecommunications Facilities	37952	5YR	09/03/2013	2013-18/64
R907-66-5	Small Purchase Cap	38035	NSC	10/07/2013	Not Printed
R907-67	Debarment of Contractors from Work on Department Projects -- Reasons	37953	5YR	09/03/2013	2013-18/65

Motor Carrier

R909-1	Safety Regulations for Motor Carriers	37996	AMD	11/07/2013	2013-19/129
R909-1-8	Form MCSA-1 Update Required	38137	NSC	12/12/2013	Not Printed
R909-19	Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification	37844	AMD	09/10/2013	2013-15/115
R909-19-7	Towing Notice Requirements	37624	EMR	05/14/2013	2013-11/93
R909-75	Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes	37875	AMD	09/23/2013	2013-16/38

Operations, Maintenance

R918-4	Using Volunteer Groups and Third Party Contractors for the Adopt-a-Highway and Sponsor-a-Highway Litter Pickup Programs	37874	5YR	08/01/2013	2013-16/70
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Preconstruction

R930-1	Installation of New Mailboxes and Correction of Nonconforming Mailboxes	38053	REP	12/09/2013	2013-21/37
R930-6	Manual of Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of-Way	38052	R&R	12/09/2013	2013-21/38
R930-7-5	Application	37957	NSC	09/13/2013	Not Printed
R930-7-13	Deviations	37995	AMD	11/07/2013	2013-19/132

Preconstruction, Right-of-Way Acquisition

R933-3	Relocation or Modification of Existing Authorized Access Openings or Granting New Access Openings on Limited Access Highways	38054	REP	12/09/2013	2013-21/63
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Program Development

R926-10	Tollway Development Agreements	37954	5YR	09/03/2013	2013-18/65
R926-11	Clean Fuel Vehicle Decal Program	38056	AMD	12/09/2013	2013-21/30
R926-11	Clean Fuel Vehicle Decal Program	38194	5YR	12/18/2013	Not Printed
R926-14	Utah Scenic Byway Program Administration; Scenic Byways Designation, De-designation, and Segmentation Processes	38051	AMD	12/09/2013	2013-21/32

TRANSPORTATION COMMISSION

Administration

R940-2	Approval of Tollway Development Agreements	37955	5YR	09/03/2013	2013-18/66
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R940-3	Procedures for Transportation Infrastructure Loan Fund Assistance	38195	5YR	12/18/2013	Not Printed
R940-4	Airports of Regional Significance	37956	5YR	09/03/2013	2013-18/66
WORKFORCE SERVICES					
<u>Employment Development</u>					
R986-100-117	Disqualification For Fraud (Intentional Program Violations or IPVs)	37644	AMD	09/10/2013	2013-12/36
R986-100-118a	Improper Access of Public Assistance Benefits	37541	AMD	06/27/2013	2013-10/200
R986-200	Family Employment Program	37991	AMD	11/14/2013	2013-19/133
R986-400	General Assistance	37947	AMD	11/01/2013	2013-18/49
R986-600	Workforce Investment Act	37878	AMD	10/07/2013	2013-16/40
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
<u>Housing and Community Development</u>					
R990-101	Qualified Emergency Food Agencies Fund (QEFAF)	37542	AMD	07/01/2013	2013-10/201
<u>Unemployment Insurance</u>					
R994-201	Definition of Terms in Employment Security Act	37518	5YR	04/11/2013	2013-9/44
R994-202	Employing Units	37543	5YR	04/25/2013	2013-10/218
R994-208	Wages	37544	5YR	04/25/2013	2013-10/219
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
R994-306	Charging Benefit Costs to Employers	37652	5YR	05/16/2013	2013-12/58
R994-307	Social Costs -- Relief of Charges	37651	5YR	05/16/2013	2013-12/59
R994-315	Centralized New Hire Registry Reporting	37650	5YR	05/16/2013	2013-12/59
R994-403	Claim for Benefits	37647	5YR	05/16/2013	2013-12/60
R994-403	Claim for Benefits	37517	AMD	06/12/2013	2013-9/23
R994-403-108b	Deferral of Work Registration and Work Search	37877	AMD	09/25/2013	2013-16/50
R994-403-115c	Period of Ineligibility	37671	AMD	08/01/2013	2013-12/38
R994-405	Ineligibility for Benefits	37648	5YR	05/16/2013	2013-12/60
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
R994-406-403	Fraud Disqualification and Penalty	37516	AMD	06/12/2013	2013-9/26
R994-508	Appeal Procedures	37649	5YR	05/16/2013	2013-12/61
R994-508-102	Time Limits for Filing an Appeal from an Initial Department Determination	37670	AMD	08/01/2013	2013-12/39
R994-508-307	Withdrawal of Appeal to the Board	37876	AMD	09/25/2013	2013-16/51

RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>401 Certification</u>					
Environmental Quality, Water Quality	37362	R317-15	NEW	08/19/2013	2013-6/44
	37362	R317-15	CPR	08/19/2013	2013-14/101

RULES INDEX

<u>access</u>						
Environmental Quality, Drinking Water	37732	R309-545	NSC	07/09/2013	Not Printed	
<u>access control</u>						
Transportation, Preconstruction	38052	R930-6	R&R	12/09/2013	2013-21/38	
<u>access to information</u>						
Administrative Services, Archives	37653	R17-5	5YR	05/17/2013	2013-12/49	
	37654	R17-6	5YR	05/17/2013	2013-12/49	
	37659	R17-7	5YR	05/28/2013	2013-12/50	
	37658	R17-7	AMD	08/15/2013	2013-12/8	
	37655	R17-8	5YR	05/17/2013	2013-12/50	
<u>access to records</u>						
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	37769	R722-900	R&R	08/21/2013	2013-14/81	
<u>accessing records</u>						
Human Services, Recovery Services	37668	R527-5-3	AMD	07/22/2013	2013-12/30	
<u>accreditation</u>						
Education, Administration	37920	R277-410-3	AMD	10/08/2013	2013-17/4	
<u>acquit</u>						
Pardons (Board Of), Administration	37352	R671-519	5YR	02/15/2013	2013-5/217	
	37464	R671-519	AMD	05/22/2013	2013-8/35	
<u>activities</u>						
Education, Administration	38041	R277-494	5YR	10/04/2013	2013-21/71	
	38042	R277-494	AMD	12/09/2013	2013-21/6	
<u>adhesives</u>						
Environmental Quality, Air Quality	37275	R307-342	NEW	08/01/2013	2013-5/17	
	37275	R307-342	CPR	08/01/2013	2013-13/208	
<u>adjudicative procedures</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	
<u>adjudicative proceedings</u>						
Environmental Quality, Drinking Water	37783	R309-115	NSC	07/19/2013	Not Printed	
Environmental Quality, Environmental Response and Remediation	37513	R311-500	NSC	04/29/2013	Not Printed	
Environmental Quality, Radiation Control	37192	R313-17	AMD	03/19/2013	2013-3/40	
Environmental Quality, Solid and Hazardous Waste	37314	R315-12	AMD	04/25/2013	2013-5/101	
Environmental Quality, Water Quality	37239	R317-9	5YR	01/31/2013	2013-4/51	
<u>administrative fines</u>						
Commerce, Securities	37660	R164-31	5YR	05/28/2013	2013-12/52	
	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>						
Administrative Services, Administration	37839	R13-1	5YR	07/11/2013	2013-15/123	
Commerce, Corporations and Commercial Code	38024	R154-100	5YR	09/26/2013	2013-20/49	
Commerce, Occupational and Professional Licensing	38021	R156-46b-202	AMD	11/21/2013	2013-20/21	
	38153	R156-46b-202	NSC	12/12/2013	Not Printed	
Commerce, Real Estate	36973	R162-2g	AMD	01/02/2013	2012-22/19	
	37865	R162-2g	AMD	10/09/2013	2013-16/4	
	37950	R162-2g-307d	AMD	10/23/2013	2013-18/25	
Crime Victim Reparations, Administration	37063	R270-2	AMD	01/07/2013	2012-23/33	
	37167	R270-2	NSC	01/30/2013	Not Printed	
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, Drinking Water	37781	R309-100	NSC	07/19/2013	Not Printed
	37858	R309-300	AMD	11/13/2013	2013-15/30
Environmental Quality, Radiation Control	37192	R313-17	AMD	03/19/2013	2013-3/40
Environmental Quality, Solid and Hazardous Waste	37306	R315-2	AMD	04/25/2013	2013-5/48
Human Resource Management, Administration	37571	R477-12	AMD	07/01/2013	2013-10/175
	37574	R477-15	AMD	07/01/2013	2013-10/180
Labor Commission, Adjudication	38115	R602-4	5YR	11/08/2013	2013-23/64
	38112	R602-5	5YR	11/08/2013	2013-23/65
	38143	R602-5	NSC	12/12/2013	Not Printed
	38108	R602-6	5YR	11/08/2013	2013-23/65
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
	37124	R612-100	NEW	02/25/2013	2013-2/58
Lieutenant Governor, Administration	37910	R622-1	5YR	08/09/2013	2013-17/57
Natural Resources, Forestry, Fire and State Lands	37751	R652-7	5YR	06/19/2013	2013-14/117
	37623	R652-70-2300	AMD	07/08/2013	2013-11/46
Natural Resources, Oil, Gas and Mining Board	37873	R641-100-600	AMD	09/26/2013	2013-16/37
School and Institutional Trust Lands, Administration	37934	R850-5-200	AMD	10/22/2013	2013-18/38
Transportation, Administration	38055	R907-1-6	AMD	12/09/2013	2013-21/29
<u>administrative proceedings</u>					
Commerce, Real Estate	37677	R162-2e	AMD	08/28/2013	2013-12/19
Environmental Quality, Drinking Water	37783	R309-115	NSC	07/19/2013	Not Printed
Environmental Quality, Environmental Response and Remediation	37482	R311-201	NSC	04/29/2013	Not Printed
	37513	R311-500	NSC	04/29/2013	Not Printed
Environmental Quality, Solid and Hazardous Waste	37314	R315-12	AMD	04/25/2013	2013-5/101
Environmental Quality, Water Quality	37239	R317-9	5YR	01/31/2013	2013-4/51
Labor Commission, Industrial Accidents	37129	R612-1	REP	02/25/2013	2013-2/28
	37125	R612-200	NEW	02/25/2013	2013-2/62
	37622	R612-200-1	AMD	07/08/2013	2013-11/34
<u>administrative responsibility</u>					
Human Resource Management, Administration	37562	R477-2	AMD	07/01/2013	2013-10/155
<u>administrative rules</u>					
Human Resource Management, Administration	37572	R477-13	AMD	07/01/2013	2013-10/177
<u>adopt-a-highway</u>					
Transportation, Operations, Maintenance	37874	R918-4	5YR	08/01/2013	2013-16/70
<u>adoption</u>					
Human Services, Child and Family Services	37645	R512-41	AMD	07/22/2013	2013-12/24
<u>adult education</u>					
Education, Administration	37404	R277-702	5YR	03/12/2013	2013-7/64
	37415	R277-702	AMD	05/16/2013	2013-7/26
<u>advertising</u>					
Public Service Commission, Administration	37871	R746-406	5YR	07/31/2013	2013-16/68
<u>aerospace</u>					
Environmental Quality, Air Quality	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
<u>agencies</u>					
Administrative Services, Facilities Construction and Management	37845	R23-30	5YR	07/15/2013	2013-15/123
	37848	R23-30	AMD	09/10/2013	2013-15/8

RULES INDEX

<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>agreements</u>						
Transportation Commission, Administration	37955	R940-2	5YR	09/03/2013	2013-18/66	
<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	
	37411	R426-2	NEW	05/30/2013	2013-7/32	
	38078	R426-2	NSC	11/01/2013	Not Printed	
<u>air pollution</u>						
Environmental Quality, Administration	37847	R305-4	5YR	07/15/2013	2013-15/126	
	38048	R305-4-5	AMD	12/19/2013	2013-21/7	
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	
	37702	R307-101-2	NSC	07/09/2013	Not Printed	
	37582	R307-101-3	AMD	08/08/2013	2013-11/24	
	37261	R307-102	5YR	02/06/2013	2013-5/191	
	37902	R307-107	5YR	08/08/2013	2013-17/49	
	37903	R307-110-10	AMD	11/07/2013	2013-17/29	
	37988	R307-110-10	AMD	12/05/2013	2013-19/41	
	37904	R307-110-36	AMD	11/07/2013	2013-17/30	
	37260	R307-115	5YR	02/06/2013	2013-5/192	
	37990	R307-121	AMD	01/01/2014	2013-19/42	
	37901	R307-123	5YR	08/08/2013	2013-17/50	
	37989	R307-123	AMD	12/05/2013	2013-19/45	
	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	
	37703	R307-214	AMD	09/12/2013	2013-13/60	
	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	
	37275	R307-342	NEW	08/01/2013	2013-5/17	
	37275	R307-342	CPR	08/01/2013	2013-13/208	
	36738	R307-343	AMD	05/01/2013	2012-19/56	
	36738	R307-343	CPR	05/01/2013	2013-1/49	
	36738	R307-343	CPR	05/01/2013	2013-7/44	
	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	
37830	R307-350	AMD	12/03/2013	2013-15/24	
37830	R307-350	CPR	12/03/2013	2013-21/68	
36733	R307-351	NEW	02/01/2013	2012-19/80	
36733	R307-351	CPR	02/01/2013	2013-1/69	
38015	R307-351-2	NSC	10/08/2013	Not Printed	
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	
36735	R307-353	NEW	05/01/2013	2012-19/86	
36735	R307-353	CPR	05/01/2013	2013-1/75	
36735	R307-353	CPR	05/01/2013	2013-7/46	
36736	R307-354	NEW	02/01/2013	2012-19/88	
36736	R307-354	CPR	02/01/2013	2013-1/79	
36737	R307-355	NEW	02/01/2013	2012-19/91	
36737	R307-355	CPR	02/01/2013	2013-1/82	
37237	R307-355-5	NSC	02/15/2013	Not Printed	
37276	R307-357	NEW	08/01/2013	2013-5/22	
37276	R307-357	CPR	08/01/2013	2013-13/213	
37704	R307-361	NEW	10/31/2013	2013-13/64	
37704	R307-361	CPR	10/31/2013	2013-19/138	
37831	R307-401-7	AMD	10/03/2013	2013-15/27	
37037	R307-401-15	AMD	02/07/2013	2012-23/40	
37236	R307-401-15	NSC	02/15/2013	Not Printed	
37268	R307-401-19	AMD	07/01/2013	2013-5/36	
37268	R307-401-19	CPR	07/01/2013	2013-11/72	
37269	R307-401-20	AMD	07/01/2013	2013-5/36	
37269	R307-401-20	CPR	07/01/2013	2013-11/72	
37265	R307-420	AMD	07/01/2013	2013-5/43	
37265	R307-420	CPR	07/01/2013	2013-11/78	
37252	R307-801	5YR	02/06/2013	2013-5/197	
<u>air quality</u>					
Environmental Quality, Air Quality					
37263	R307-403-1	AMD	07/01/2013	2013-5/37	
37263	R307-403-1	CPR	07/01/2013	2013-11/73	
37987	R307-403-1	AMD	12/05/2013	2013-19/47	
37264	R307-403-2	AMD	07/01/2013	2013-5/39	
37264	R307-403-2	CPR	07/01/2013	2013-11/74	
37266	R307-403-10	AMD	07/01/2013	2013-5/42	
37266	R307-403-10	CPR	07/01/2013	2013-11/77	
37267	R307-403-11	AMD	07/01/2013	2013-5/43	
37267	R307-403-11	CPR	07/01/2013	2013-11/77	
<u>air travel</u>					
Administrative Services, Finance					
37523	R25-7	5YR	04/15/2013	2013-9/30	
37556	R25-7	AMD	06/21/2013	2013-10/7	
38174	R25-7	EMR	01/01/2014	Not Printed	
<u>airports of regional significance</u>					
Transportation Commission, Administration					
37956	R940-4	5YR	09/03/2013	2013-18/66	
<u>alarm company</u>					
Commerce, Occupational and Professional Licensing					
37943	R156-55d	AMD	10/29/2013	2013-18/14	
<u>alcoholic beverages</u>					
Alcoholic Beverage Control, Administration					
37962	R81-1-9	AMD	10/30/2013	2013-18/12	
37611	R81-1-31	EMR	05/13/2013	2013-11/88	
37363	R81-1-31	AMD	06/25/2013	2013-6/4	
37363	R81-1-31	CPR	06/25/2013	2013-10/206	
37365	R81-2-12	AMD	04/30/2013	2013-6/5	
37367	R81-4A-2	AMD	04/30/2013	2013-6/5	
37615	R81-4A-2	AMD	07/30/2013	2013-11/6	
38028	R81-4A-7	AMD	11/26/2013	2013-20/14	
37368	R81-4B-2	AMD	04/30/2013	2013-6/6	
37834	R81-4C	5YR	07/10/2013	2013-15/124	

RULES INDEX

	37369	R81-4C-2	AMD	04/30/2013	2013-6/7
	37616	R81-4C-2	AMD	07/30/2013	2013-11/7
	38029	R81-4C-7	AMD	11/26/2013	2013-20/15
	37835	R81-4D	5YR	07/11/2013	2013-15/125
	37370	R81-4D-2	AMD	04/30/2013	2013-6/8
	37371	R81-4E-2	AMD	04/30/2013	2013-6/9
	37372	R81-4F-2	AMD	04/30/2013	2013-6/10
	37617	R81-5-1	AMD	09/24/2013	2013-11/8
	37617	R81-5-1	CPR	09/24/2013	2013-16/54
	37373	R81-5-2	AMD	04/30/2013	2013-6/11
	37618	R81-5-5	AMD	07/30/2013	2013-11/9
	37619	R81-5-18	NSC	06/07/2013	Not Printed
	37377	R81-9-1	AMD	04/30/2013	2013-6/12
	37673	R81-10	5YR	05/31/2013	2013-12/51
	37374	R81-10A-3	AMD	04/30/2013	2013-6/13
	37836	R81-10B	5YR	07/11/2013	2013-15/125
	37375	R81-10C-2	AMD	04/30/2013	2013-6/14
	38027	R81-10C-6	AMD	11/26/2013	2013-20/16
	37376	R81-10D-2	AMD	04/30/2013	2013-6/15
	37378	R81-11-1	AMD	04/30/2013	2013-6/16
<u>allegations</u>					
Pardons (Board Of), Administration	37347	R671-514	5YR	02/15/2013	2013-5/214
	37460	R671-514	AMD	05/22/2013	2013-8/29
<u>allowance</u>					
Administrative Services, Finance	37524	R25-8	5YR	04/15/2013	2013-9/30
	37557	R25-8	AMD	06/21/2013	2013-10/12
<u>alternative energy</u>					
Governor, Economic Development	37207	R357-9	AMD	05/01/2013	2013-4/16
<u>alternative fuels</u>					
Environmental Quality, Administration	37847	R305-4	5YR	07/15/2013	2013-15/126
	38048	R305-4-5	AMD	12/19/2013	2013-21/7
Environmental Quality, Air Quality	37990	R307-121	AMD	01/01/2014	2013-19/42
	37901	R307-123	5YR	08/08/2013	2013-17/50
	37989	R307-123	AMD	12/05/2013	2013-19/45
<u>alternative wastewater systems</u>					
Environmental Quality, Water Quality	37575	R317-4	R&R	09/01/2013	2013-10/27
<u>ambulance rates</u>					
Health, Family Health and Preparedness, Emergency Medical Services	37695	R426-16	REP	10/18/2013	2013-13/191
<u>amendments</u>					
Health, Center for Health Data, Vital Records and Statistics	37424	R436-3	5YR	03/21/2013	2013-8/57
<u>amphibians</u>					
Natural Resources, Wildlife Resources	37667	R657-53	5YR	05/30/2013	2013-12/57
<u>animal protection</u>					
Natural Resources, Wildlife Resources	37384	R657-3	5YR	03/05/2013	2013-7/67
	37980	R657-52	AMD	11/07/2013	2013-19/93
<u>animals</u>					
Health, Disease Control and Prevention, Laboratory Services	37842	R438-13	5YR	07/12/2013	2013-15/126
<u>annuity insurance filings</u>					
Insurance, Administration	37862	R590-227	AMD	10/16/2013	2013-16/28
<u>annuity replacement</u>					
Insurance, Administration	37515	R590-93	AMD	06/11/2013	2013-9/12

<u>antipoverty programs</u>						
Workforce Services, Housing and Community Development	37542	R990-101	AMD	07/01/2013	2013-10/201	
<u>appeals</u>						
Education, Administration	37886	R277-481	5YR	08/02/2013	2013-17/46	
	37924	R277-481	AMD	10/08/2013	2013-17/10	
Professional Practices Advisory Commission, Administration	38011	R686-103	AMD	11/07/2013	2013-19/127	
	37863	R686-104	NSC	09/10/2013	Not Printed	
<u>appellate procedures</u>						
Administrative Services, Administration	37839	R13-1	5YR	07/11/2013	2013-15/123	
Crime Victim Reparations, Administration	37063	R270-2	AMD	01/07/2013	2012-23/33	
	37167	R270-2	NSC	01/30/2013	Not Printed	
Workforce Services, Unemployment Insurance	37649	R994-508	5YR	05/16/2013	2013-12/61	
	37670	R994-508-102	AMD	08/01/2013	2013-12/39	
	37876	R994-508-307	AMD	09/25/2013	2013-16/51	
<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	
	37881	R414-308-4	AMD	10/01/2013	2013-16/15	
Natural Resources, Water Rights	37388	R655-5	5YR	03/07/2013	2013-7/66	
<u>applied behavioral analysis (ABA)</u>						
Health, Family Health and Preparedness, Children with Special Health Care Needs	37809	R398-15	AMD	08/27/2013	2013-14/70	
<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>appraisal management company</u>						
Commerce, Real Estate	37677	R162-2e	AMD	08/28/2013	2013-12/19	
<u>appraisals</u>						
Tax Commission, Property Tax	38057	R884-24P-29	AMD	01/01/2014	2013-21/23	
	37936	R884-24P-33	AMD	10/24/2013	2013-18/41	
	38058	R884-24P-53	AMD	01/01/2014	2013-21/24	
	37109	R884-24P-67	AMD	02/21/2013	2013-1/22	
<u>approval orders</u>						
Environmental Quality, Air Quality	37831	R307-401-7	AMD	10/03/2013	2013-15/27	
	37037	R307-401-15	AMD	02/07/2013	2012-23/40	
	37236	R307-401-15	NSC	02/15/2013	Not Printed	
	37268	R307-401-19	AMD	07/01/2013	2013-5/36	
	37268	R307-401-19	CPR	07/01/2013	2013-11/72	
	37269	R307-401-20	AMD	07/01/2013	2013-5/36	
	37269	R307-401-20	CPR	07/01/2013	2013-11/72	
<u>aquaculture</u>						
Natural Resources, Wildlife Resources	37895	R657-59	5YR	08/05/2013	2013-17/59	
<u>architects</u>						
Commerce, Occupational and Professional Licensing	37073	R156-3a-102	AMD	01/24/2013	2012-24/6	
<u>architectural coatings</u>						
Environmental Quality, Air Quality	37704	R307-361	NEW	10/31/2013	2013-13/64	
	37704	R307-361	CPR	10/31/2013	2013-19/138	
<u>armored car company</u>						
Commerce, Occupational and Professional Licensing	37975	R156-63b	5YR	09/09/2013	2013-19/148	
	37945	R156-63b-102	AMD	10/29/2013	2013-18/19	

RULES INDEX

<u>armored car security officers</u>						
Commerce, Occupational and Professional Licensing	37975	R156-63b	5YR	09/09/2013	2013-19/148	
	37945	R156-63b-102	AMD	10/29/2013	2013-18/19	
<u>arts program</u>						
Education, Administration	37711	R277-490	5YR	06/10/2013	2013-13/231	
	37742	R277-490	AMD	08/07/2013	2013-13/48	
<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>assessment</u>						
Education, Administration	37993	R277-404	5YR	09/13/2013	2013-19/149	
	38002	R277-404	AMD	11/07/2013	2013-19/22	
	38003	R277-405	REP	11/07/2013	2013-19/26	
<u>assurance organization designation</u>						
Insurance, Administration	37907	R590-250	5YR	08/09/2013	2013-17/56	
<u>athletes</u>						
Education, Administration	37630	R277-614	5YR	05/15/2013	2013-11/99	
	37635	R277-614	AMD	07/08/2013	2013-11/23	
<u>attorney exemption application process</u>						
Insurance, Title and Escrow Commission	38120	R592-8	NSC	12/12/2013	Not Printed	
<u>audit committee</u>						
Education, Administration	37356	R277-113	NEW	04/22/2013	2013-6/28	
	37999	R277-113	AMD	11/07/2013	2013-19/14	
	37538	R277-113-5	NSC	05/17/2013	Not Printed	
<u>autism spectrum disorders</u>						
Health, Family Health and Preparedness, Children with Special Health Care Needs	37809	R398-15	AMD	08/27/2013	2013-14/70	
<u>autism treatment</u>						
Health, Family Health and Preparedness, Children with Special Health Care Needs	37809	R398-15	AMD	08/27/2013	2013-14/70	
<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>backflow assembly tester</u>						
Environmental Quality, Drinking Water	37859	R309-305	AMD	11/13/2013	2013-15/36	
<u>background checks</u>						
Human Services, Substance Abuse and Mental Health, State Hospital	37214	R525-5	5YR	01/23/2013	2013-4/57	
	37970	R525-5	NSC	09/30/2013	Not Printed	
<u>background screening</u>						
Health, Family Health and Preparedness, Child Care Licensing	37774	R430-6-3	AMD	09/01/2013	2013-14/71	
Health, Family Health and Preparedness, Licensing	37441	R432-35	5YR	03/25/2013	2013-8/55	

<u>bail bond enforcement agent</u> Public Safety, Criminal Investigations and Technical Services, Criminal Identification	37605	R722-310	AMD	07/08/2013	2013-11/55
<u>bail bond recovery agent</u> Public Safety, Criminal Investigations and Technical Services, Criminal Identification	37605	R722-310	AMD	07/08/2013	2013-11/55
<u>bail bond recovery apprentice</u> Public Safety, Criminal Investigations and Technical Services, Criminal Identification	37605	R722-310	AMD	07/08/2013	2013-11/55
<u>beam limitation</u> Environmental Quality, Radiation Control	37183 37867	R313-28 R313-28-80	NSC AMD	01/31/2013 10/15/2013	Not Printed 2013-16/6
<u>beekeeping</u> Agriculture and Food, Plant Industry	37631	R68-1	NSC	06/07/2013	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 37770	R805-1 R805-1	5YR AMD	03/12/2013 08/21/2013	2013-7/69 2013-14/85
<u>big game</u> Natural Resources, Wildlife Resources	37643	R657-44	AMD	07/22/2013	2013-12/31
<u>birds</u> Natural Resources, Wildlife Resources	37982 37233 37534	R657-9 R657-20 R657-20	AMD AMD NSC	11/07/2013 04/23/2013 05/17/2013	2013-19/88 2013-4/26 Not Printed
<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 36776	R305-9 R305-9	NEW CPR	02/22/2013 02/22/2013	2012-19/28 2013-2/94
<u>boards</u> Administrative Services, Finance	37521 37558	R25-5 R25-5	5YR AMD	04/15/2013 06/21/2013	2013-9/29 2013-10/6
<u>boating</u> Natural Resources, Parks and Recreation	37601 37602 37603 37242	R651-204 R651-214 R651-216-8 R651-224	AMD AMD AMD AMD	07/08/2013 07/08/2013 07/08/2013 04/12/2013	2013-11/36 2013-11/37 2013-11/39 2013-4/22
<u>boxing</u> Governor, Economic Development, Pete Suazo Utah Athletic Commission	37672	R359-1	AMD	09/13/2013	2013-12/21
<u>brachytherapy</u> Environmental Quality, Radiation Control	37184	R313-32	NSC	01/31/2013	Not Printed
<u>breaks</u> Human Resource Management, Administration	37567	R477-8	AMD	07/01/2013	2013-10/167
<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

RULES INDEX

	37204	R357-2	REP	05/01/2013	2013-3/96
<u>budgeting</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	37217	R414-304	5YR	01/23/2013	2013-4/54
<u>building inspections</u>					
Commerce, Occupational and Professional Licensing	37753	R156-56-403	AMD	08/22/2013	2013-14/27
<u>building inspectors</u>					
Commerce, Occupational and Professional Licensing	37753	R156-56-403	AMD	08/22/2013	2013-14/27
<u>bulls</u>					
Agriculture and Food, Animal Industry	36962	R58-21	AMD	01/04/2013	2012-22/16
<u>bullying</u>					
Education, Administration	37891	R277-613	5YR	08/02/2013	2013-17/49
	37928	R277-613	AMD	10/08/2013	2013-17/23
<u>burglar alarms</u>					
Commerce, Occupational and Professional Licensing	37943	R156-55d	AMD	10/29/2013	2013-18/14
<u>C decal</u>					
Transportation, Program Development	38194	R926-11	5YR	12/18/2013	Not Printed
<u>C decals</u>					
Transportation, Program Development	38056	R926-11	AMD	12/09/2013	2013-21/30
<u>C permit</u>					
Transportation, Program Development	38194	R926-11	5YR	12/18/2013	Not Printed
<u>C permits</u>					
Transportation, Program Development	38056	R926-11	AMD	12/09/2013	2013-21/30
<u>camp resort</u>					
Commerce, Real Estate	37076	R162-57a	AMD	04/02/2013	2012-24/14
<u>capacity development</u>					
Environmental Quality, Drinking Water	37747	R309-800	NSC	07/09/2013	Not Printed
<u>capital punishment</u>					
Pardons (Board Of), Administration	37341	R671-312	5YR	02/15/2013	2013-5/212
	37438	R671-312	AMD	05/22/2013	2013-8/15
	37439	R671-312A	NEW	05/22/2013	2013-8/18
	37440	R671-312B	NEW	05/22/2013	2013-8/20
<u>care receiver</u>					
Human Services, Aging and Adult Services	38070	R510-401-6	NSC	11/06/2013	Not Printed
<u>career and technical education</u>					
Education, Administration	37399	R277-518	5YR	03/12/2013	2013-7/61
<u>career development courses</u>					
Public Safety, Peace Officer Standards and Training	37805	R728-501	5YR	06/28/2013	2013-14/118
<u>caregiver</u>					
Human Services, Aging and Adult Services	38070	R510-401-6	NSC	11/06/2013	Not Printed
<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 registration</u>					
Natural Resources, Wildlife Resources	37595	R657-45	5YR	05/06/2013	2013-11/105

	37716	R657-65	NEW	08/08/2013	2013-13/195
	37979	R657-66	NEW	11/07/2013	2013-19/98
<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>					
Environmental Quality, Water Quality	37812	R317-11	AMD	09/01/2013	2013-14/54
Labor Commission, Boiler and Elevator Safety	37493	R616-1	5YR	04/05/2013	2013-9/38
	37520	R616-1	NSC	04/29/2013	Not Printed
<u>certifications</u>					
Transportation, Motor Carrier	37844	R909-19	AMD	09/10/2013	2013-15/115
	37624	R909-19-7	EMR	05/14/2013	2013-11/93
<u>certified court reporter</u>					
Commerce, Occupational and Professional Licensing	37958	R156-74	5YR	09/03/2013	2013-18/61
<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>charter schools</u>					
Education, Administration	37885	R277-470	5YR	08/02/2013	2013-17/46
	37923	R277-470	AMD	10/08/2013	2013-17/7
	37886	R277-481	5YR	08/02/2013	2013-17/46
	37924	R277-481	AMD	10/08/2013	2013-17/10
<u>child abuse</u>					
Human Services, Child and Family Services	37502	R512-200	5YR	04/08/2013	2013-9/35
	37503	R512-201	5YR	04/08/2013	2013-9/36
	37504	R512-202	5YR	04/08/2013	2013-9/36
	37639	R512-300	5YR	05/16/2013	2013-12/55
	37640	R512-301	5YR	05/16/2013	2013-12/55
<u>child care</u>					
Health, Family Health and Preparedness, Child Care Licensing	37778	R430-70-7	AMD	09/01/2013	2013-14/76
	37780	R430-100-7	AMD	09/01/2013	2013-14/79
Workforce Services, Employment Development	37025	R986-700-710	AMD	01/02/2013	2012-22/146
<u>child care centers</u>					
Health, Family Health and Preparedness, Child Care Licensing	37778	R430-70-7	AMD	09/01/2013	2013-14/76
	37780	R430-100-7	AMD	09/01/2013	2013-14/79
<u>child care facilities</u>					
Health, Family Health and Preparedness, Child Care Licensing	37774	R430-6-3	AMD	09/01/2013	2013-14/71
	37661	R430-50	5YR	05/29/2013	2013-12/53
	37775	R430-50-7	AMD	09/01/2013	2013-14/73
	37662	R430-60	5YR	05/29/2013	2013-12/54
	37777	R430-60-7	AMD	09/01/2013	2013-14/74
	37778	R430-70-7	AMD	09/01/2013	2013-14/76
	37663	R430-90	5YR	05/29/2013	2013-12/54
	37779	R430-90-7	AMD	09/01/2013	2013-14/77
	37780	R430-100-7	AMD	09/01/2013	2013-14/79
<u>child placing</u>					
Human Services, Administration, Administrative Services, Licensing	37900	R501-7	AMD	11/27/2013	2013-17/35

RULES INDEX

child support

Human Services, Administration	37983	R495-879	5YR	09/10/2013	2013-19/150
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	2013-9/37
	37550	R527-920	5YR	04/29/2013	2013-10/214

child welfare

Human Services, Child and Family Services	37645	R512-41	AMD	07/22/2013	2013-12/24
	37527	R512-52	REP	06/21/2013	2013-10/182
	37501	R512-100	5YR	04/08/2013	2013-9/35
	37502	R512-200	5YR	04/08/2013	2013-9/35
	37503	R512-201	5YR	04/08/2013	2013-9/36
	37504	R512-202	5YR	04/08/2013	2013-9/36
	37639	R512-300	5YR	05/16/2013	2013-12/55
	37640	R512-301	5YR	05/16/2013	2013-12/55
	37641	R512-302	5YR	05/16/2013	2013-12/56
	37646	R512-302	AMD	07/22/2013	2013-12/27
	37642	R512-305	5YR	05/16/2013	2013-12/56
	37931	R512-309	5YR	08/15/2013	2013-17/54
	37505	R512-500	5YR	04/08/2013	2013-9/37

children's health benefits

Health, Children's Health Insurance Program	37608	R382-1	5YR	05/08/2013	2013-11/100
	37610	R382-10	5YR	05/09/2013	2013-11/100
	37879	R382-10	AMD	10/01/2013	2013-16/10

chiropractic services

Health, Health Care Financing, Coverage and Reimbursement Policy	38162	R414-99	5YR	12/02/2013	2013-24/46
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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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clean fuel

Transportation, Program Development	38056	R926-11	AMD	12/09/2013	2013-21/30
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clean fuels

Transportation, Program Development	38194	R926-11	5YR	12/18/2013	Not Printed
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Clean Water Act

Environmental Quality, Water Quality	37362	R317-15	NEW	08/19/2013	2013-6/44
	37362	R317-15	CPR	08/19/2013	2013-14/101

cleanup standards

Environmental Quality, Water Quality	37854	R317-6	AMD	09/24/2013	2013-15/85
	37961	R317-6-6	AMD	10/24/2013	2013-18/26

client rights

Health, Health Care Financing, Coverage and Reimbursement Policy	37221	R414-301	5YR	01/23/2013	2013-4/52
	37880	R414-301	AMD	10/01/2013	2013-16/11

co-curricular

Education, Administration	38041	R277-494	5YR	10/04/2013	2013-21/71
	38042	R277-494	AMD	12/09/2013	2013-21/6

<u>coal mines</u>					
Natural Resources, Oil, Gas and Mining; Coal	37473	R645-101	5YR	04/02/2013	2013-9/39
	37466	R645-102	5YR	04/01/2013	2013-8/64
	37474	R645-104	5YR	04/02/2013	2013-9/40
	37475	R645-401	5YR	04/02/2013	2013-9/40
<u>coatings</u>					
Environmental Quality, Air Quality	36738	R307-343	AMD	05/01/2013	2012-19/56
	36738	R307-343	CPR	05/01/2013	2013-1/49
	36738	R307-343	CPR	05/01/2013	2013-7/44
	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
	37830	R307-350	AMD	12/03/2013	2013-15/24
	37830	R307-350	CPR	12/03/2013	2013-21/68
	36735	R307-353	NEW	05/01/2013	2012-19/86
	36735	R307-353	CPR	05/01/2013	2013-1/75
	36735	R307-353	CPR	05/01/2013	2013-7/46
	36736	R307-354	NEW	02/01/2013	2012-19/88
	36736	R307-354	CPR	02/01/2013	2013-1/79
	36737	R307-355	CPR	02/01/2013	2013-1/82
	37237	R307-355-5	NSC	02/15/2013	Not Printed
<u>coil coatings</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>colleges</u>					
Regents (Board Of), Administration	37553	R765-555	5YR	04/29/2013	2013-10/217
<u>comment</u>					
Environmental Quality, Radiation Control	37192	R313-17	AMD	03/19/2013	2013-3/40
<u>commercial cooking</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>commercial motor vehicle insurance</u>					
Insurance, Administration	37172	R590-243	5YR	01/07/2013	2013-3/113
<u>commercialization revenues</u>					
Science Technology and Research Governing Auth., Administration	37964	R856-2	NSC	09/30/2013	Not Printed
<u>communicable diseases</u>					
Health, Disease Control and Prevention, Epidemiology	37345	R386-702	AMD	05/15/2013	2013-5/173
<u>community action programs</u>					
Workforce Services, Housing and Community Development	37542	R990-101	AMD	07/01/2013	2013-10/201
<u>commutation</u>					
Pardons (Board Of), Administration	37439	R671-312A	NEW	05/22/2013	2013-8/18
	37440	R671-312B	NEW	05/22/2013	2013-8/20
<u>competency</u>					
Education, Administration	38001	R277-403	AMD	11/07/2013	2013-19/19
<u>complaints</u>					
Education, Administration	37626	R277-104	5YR	05/15/2013	2013-11/97
Human Services, Substance Abuse and Mental Health, State Hospital	37213	R525-7	5YR	01/23/2013	2013-4/58
	37972	R525-7	NSC	09/30/2013	Not Printed
Public Service Commission, Administration	37868	R746-500	5YR	07/31/2013	2013-16/69

RULES INDEX

<u>compliance determinations</u>					
Environmental Quality, Drinking Water	37786	R309-205	NSC	07/19/2013	Not Printed
	37784	R309-210	NSC	07/19/2013	Not Printed
	37788	R309-215	NSC	07/19/2013	Not Printed
<u>concealed firearm permit instructors</u>					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	37606	R722-300	AMD	07/08/2013	2013-11/50
<u>concealed firearm permits</u>					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	37606	R722-300	AMD	07/08/2013	2013-11/50
<u>concerns</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	37213	R525-7	5YR	01/23/2013	2013-4/58
	37972	R525-7	NSC	09/30/2013	Not Printed
<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>					
Commerce, Real Estate	37677	R162-2e	AMD	08/28/2013	2013-12/19
Professional Practices Advisory Commission, Administration	37243	R686-100	5YR	02/01/2013	2013-4/60
	38008	R686-100	R&R	11/07/2013	2013-19/101
	38127	R686-100-1	NSC	12/12/2013	Not Printed
<u>confidential testimony</u>					
Pardons (Board Of), Administration	37353	R671-520	5YR	02/15/2013	2013-5/217
	37465	R671-520	AMD	05/22/2013	2013-8/36
<u>confidentiality</u>					
Education, Administration	37144	R277-487	AMD	02/21/2013	2013-2/7
	37740	R277-487	AMD	08/07/2013	2013-13/43
<u>confidentiality of information</u>					
Environmental Quality, Air Quality	37261	R307-102	5YR	02/06/2013	2013-5/191
Human Resource Management, Administration	37562	R477-2	AMD	07/01/2013	2013-10/155
<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
Human Resource Management, Administration	37568	R477-9	AMD	07/01/2013	2013-10/170
<u>congregate meals</u>					
Human Services, Aging and Adult Services	37228	R510-104-11	AMD	04/15/2013	2013-4/18
<u>connections</u>					
Environmental Quality, Drinking Water	37733	R309-550	NSC	07/09/2013	Not Printed
<u>consumer confidence report</u>					
Environmental Quality, Drinking Water	37787	R309-225	NSC	07/19/2013	Not Printed
<u>consumer products</u>					
Environmental Quality, Air Quality	37276	R307-357	NEW	08/01/2013	2013-5/22
	37276	R307-357	CPR	08/01/2013	2013-13/213
<u>consumer protection</u>					
Commerce, Consumer Protection	37897	R152-32a	5YR	08/05/2013	2013-17/45
<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>contractors</u>						
Commerce, Occupational and Professional Licensing	37364	R156-55a	AMD	04/22/2013	2013-6/17	
Transportation, Administration	37953	R907-67	5YR	09/03/2013	2013-18/65	
<u>contracts</u>						
Transportation, Administration	38035	R907-66-5	NSC	10/07/2013	Not Printed	
<u>controlled substance database</u>						
Commerce, Occupational and Professional Licensing	37039	R156-37f	NEW	01/08/2013	2012-23/21	
	38031	R156-37f-102	AMD	11/21/2013	2013-20/20	
<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	
	37959	R156-37c	5YR	09/03/2013	2013-18/61	
<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	
	37593	R657-37	5YR	05/06/2013	2013-11/104	
<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>corrections</u>						
Corrections, Administration	38032	R251-103	5YR	09/30/2013	2013-20/49	
	38030	R251-105	5YR	09/30/2013	2013-20/50	
	37828	R251-111	EXD	07/09/2013	2013-15/137	
<u>cosmetologists/barbers</u>						
Commerce, Occupational and Professional Licensing	37697	R156-11a	AMD	08/08/2013	2013-13/3	
<u>costs</u>						
Administrative Services, Finance	37522	R25-6	5YR	04/15/2013	2013-9/29	
<u>cougar</u>						
Natural Resources, Wildlife Resources	37978	R657-10	AMD	11/07/2013	2013-19/90	
<u>court reporting</u>						
Commerce, Occupational and Professional Licensing	37958	R156-74	5YR	09/03/2013	2013-18/61	
<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	
	37301	R414-303	AMD	04/17/2013	2013-5/179	
<u>credit enhancement</u>						
Environmental Quality, Drinking Water	37748	R309-700	NSC	07/09/2013	Not Printed	
<u>credit scoring</u>						
Insurance, Administration	37600	R590-219	5YR	05/07/2013	2013-11/101	
<u>criminal charges</u>						
Pardons (Board Of), Administration	37351	R671-518	5YR	02/15/2013	2013-5/216	

RULES INDEX

<u>criminal history records information</u>						
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	37514	R722-900	5YR	04/10/2013	2013-9/44	
<u>criminal investigation</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>criminal justice agencies</u>						
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	37769	R722-900	R&R	08/21/2013	2013-14/81	
<u>criminal records</u>						
Corrections, Administration	37828	R251-111	EXD	07/09/2013	2013-15/137	
<u>cross connection control</u>						
Environmental Quality, Drinking Water	37859	R309-305	AMD	11/13/2013	2013-15/36	
<u>cultural resources</u>						
School and Institutional Trust Lands, Administration	38138	R850-61	5YR	11/13/2013	2013-23/68	
<u>curricula</u>						
Education, Administration	37403	R277-700	5YR	03/12/2013	2013-7/63	
	37994	R277-705	5YR	09/13/2013	2013-19/150	
	38007	R277-705	AMD	11/07/2013	2013-19/37	
	37808	R277-713	AMD	08/26/2013	2013-14/34	
<u>custody of children</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	
Human Services, Administration	37983	R495-879	5YR	09/10/2013	2013-19/150	
<u>cyber-bullying</u>						
Education, Administration	37928	R277-613	AMD	10/08/2013	2013-17/23	
<u>dairy inspections</u>						
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	
	37620	R70-330	EMR	05/14/2013	2013-11/84	
	37992	R70-330	AMD	11/13/2013	2013-19/4	
<u>data standards</u>						
Education, Administration	37145	R277-484	AMD	02/21/2013	2013-2/4	
	37739	R277-484	AMD	08/07/2013	2013-13/39	
<u>deadlines</u>						
Education, Administration	37145	R277-484	AMD	02/21/2013	2013-2/4	
	37739	R277-484	AMD	08/07/2013	2013-13/39	
<u>death</u>						
Health, Center for Health Data, Vital Records and Statistics	37426	R436-7	5YR	03/21/2013	2013-8/58	
<u>debt cancellation</u>						
Financial Institutions, Administration	38060	R331-25	5YR	10/11/2013	2013-21/73	
<u>debt suspension</u>						
Financial Institutions, Administration	38060	R331-25	5YR	10/11/2013	2013-21/73	
<u>declaratory orders</u>						
Labor Commission, Administration	37492	R600-1	5YR	04/05/2013	2013-9/38	
<u>decommissioning</u>						
Environmental Quality, Radiation Control	37195	R313-22	AMD	03/19/2013	2013-3/56	

<u>deferred deposit lenders</u>						
Financial Institutions, Nondepository Lenders	37864	R343-9	NEW	09/23/2013	2013-16/8	
<u>definitions</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	
	37702	R307-101-2	NSC	07/09/2013	Not Printed	
	37582	R307-101-3	AMD	08/08/2013	2013-11/24	
Environmental Quality, Drinking Water	37782	R309-110	NSC	07/19/2013	Not Printed	
Environmental Quality, Radiation Control	37189	R313-12	AMD	03/19/2013	2013-3/6	
	37597	R313-12-3	NSC	06/07/2013	Not Printed	
Human Resource Management, Administration	37561	R477-1-1	AMD	07/01/2013	2013-10/150	
Workforce Services, Unemployment Insurance	37518	R994-201	5YR	04/11/2013	2013-9/44	
<u>degreasing</u>						
Environmental Quality, Air Quality	36737	R307-355	NEW	02/01/2013	2012-19/91	
<u>dental</u>						
Environmental Quality, Radiation Control	37183	R313-28	NSC	01/31/2013	Not Printed	
	37867	R313-28-80	AMD	10/15/2013	2013-16/6	
Health, Health Care Financing, Coverage and Reimbursement Policy	37559	R414-51	5YR	04/30/2013	2013-10/213	
	37696	R414-51	AMD	08/14/2013	2013-13/128	
<u>dental hygienists</u>						
Commerce, Occupational and Professional Licensing	37706	R156-69-302b	AMD	08/08/2013	2013-13/24	
<u>dentists</u>						
Commerce, Occupational and Professional Licensing	37706	R156-69-302b	AMD	08/08/2013	2013-13/24	
<u>depleted uranium</u>						
Environmental Quality, Radiation Control	37180	R313-25	NSC	01/31/2013	Not Printed	
<u>degradation</u>						
Natural Resources, Wildlife Resources	37643	R657-44	AMD	07/22/2013	2013-12/31	
<u>developmental disabilities</u>						
Tax Commission, Administration	38016	R861-1A-9	NSC	10/08/2013	Not Printed	
	36991	R861-1A-12	AMD	01/10/2013	2012-22/144	
	37104	R861-1A-26	AMD	02/21/2013	2013-1/15	
	37935	R861-1A-29	AMD	10/24/2013	2013-18/40	
	37106	R861-1A-37	AMD	02/21/2013	2013-1/17	
	37107	R861-1A-46	AMD	02/21/2013	2013-1/18	
<u>dietitians</u>						
Commerce, Occupational and Professional Licensing	37273	R156-49	5YR	02/07/2013	2013-5/189	
	38074	R156-49	AMD	12/23/2013	2013-22/41	
<u>direct filtration</u>						
Environmental Quality, Drinking Water	37729	R309-530	AMD	08/28/2013	2013-13/114	
<u>disabilities</u>						
Health, Family Health and Preparedness, Children with Special Health Care Needs	37827	R398-20	EXT	07/09/2013	2013-15/135	
	37892	R398-20	5YR	08/02/2013	2013-17/50	
Human Services, Services for People with Disabilities	37110	R539-1	AMD	02/13/2013	2013-1/2	
	37245	R539-1-3	AMD	04/18/2013	2013-4/21	
	37918	R539-15	5YR	08/13/2013	2013-17/55	
	37919	R539-15	REP	10/10/2013	2013-17/36	
<u>disabled</u>						
Human Services, Aging and Adult Services	37277	R510-105	5YR	02/08/2013	2013-5/210	
<u>disabled persons</u>						
Education, Administration	37626	R277-104	5YR	05/15/2013	2013-11/97	
Natural Resources, Wildlife Resources	37225	R657-12	AMD	04/23/2013	2013-4/24	

RULES INDEX

Public Service Commission, Administration	37868	R746-500	5YR	07/31/2013	2013-16/69
<u>discharge</u>					
Environmental Quality, Water Quality	37241	R317-14	5YR	01/31/2013	2013-4/52
	38066	R317-14	NSC	11/04/2013	Not Printed
<u>discharge permits</u>					
Environmental Quality, Water Quality	37581	R317-8	AMD	07/01/2013	2013-10/59
<u>disciplinary actions</u>					
Education, Administration	37890	R277-609	5YR	08/02/2013	2013-17/48
	37927	R277-609	AMD	10/08/2013	2013-17/20
	38046	R277-609-3	NSC	10/30/2013	Not Printed
Professional Practices Advisory Commission, Administration	37637	R686-101	5YR	05/16/2013	2013-12/57
	37674	R686-101	AMD	09/10/2013	2013-12/33
	37638	R686-102	5YR	05/16/2013	2013-12/58
	37675	R686-102	AMD	09/10/2013	2013-12/34
<u>disciplinary problems</u>					
Education, Administration	37627	R277-436	5YR	05/15/2013	2013-11/97
<u>discipline of employees</u>					
Human Resource Management, Administration	37570	R477-11	AMD	07/01/2013	2013-10/173
	37573	R477-14	AMD	07/01/2013	2013-10/178
<u>disclosure requirements</u>					
Tax Commission, Administration	38016	R861-1A-9	NSC	10/08/2013	Not Printed
	36991	R861-1A-12	AMD	01/10/2013	2012-22/144
	37104	R861-1A-26	AMD	02/21/2013	2013-1/15
	37935	R861-1A-29	AMD	10/24/2013	2013-18/40
	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	37811	R58-1	AMD	08/21/2013	2013-14/9
	37248	R58-6	R&R	03/25/2013	2013-4/6
	36962	R58-21	AMD	01/04/2013	2012-22/16
<u>disinfection monitoring</u>					
Environmental Quality, Drinking Water	37788	R309-215	NSC	07/19/2013	Not Printed
<u>dismissal of employees</u>					
Human Resource Management, Administration	37570	R477-11	AMD	07/01/2013	2013-10/173
<u>disruptive students</u>					
Education, Administration	37890	R277-609	5YR	08/02/2013	2013-17/48
	37927	R277-609	AMD	10/08/2013	2013-17/20
	38046	R277-609-3	NSC	10/30/2013	Not Printed
<u>distribution of revenues</u>					
Science Technology and Research Governing Auth., Administration	37964	R856-2	NSC	09/30/2013	Not Printed
<u>distribution system monitoring</u>					
Environmental Quality, Drinking Water	37784	R309-210	NSC	07/19/2013	Not Printed
<u>diversion programs</u>					
Commerce, Occupational and Professional Licensing	37395	R156-1	NSC	04/01/2013	Not Printed
	37754	R156-1	AMD	08/22/2013	2013-14/21
	38020	R156-1	AMD	11/21/2013	2013-20/17
	37199	R156-1-102	AMD	03/11/2013	2013-3/2
Human Services, Juvenile Justice Services	37986	R547-1	REP	11/27/2013	2013-19/70

<u>do not resuscitate</u>						
Health, Family Health and Preparedness, Licensing	37442	R432-31	AMD	06/07/2013	2013-8/12	
<u>domestic violence</u>						
Human Services, Child and Family Services	37502	R512-200	5YR	04/08/2013	2013-9/35	
	37503	R512-201	5YR	04/08/2013	2013-9/36	
	37504	R512-202	5YR	04/08/2013	2013-9/36	
	37639	R512-300	5YR	05/16/2013	2013-12/55	
	37640	R512-301	5YR	05/16/2013	2013-12/55	
<u>drinking water</u>						
Environmental Quality, Drinking Water	37781	R309-100	NSC	07/19/2013	Not Printed	
	37795	R309-105	AMD	10/12/2013	2013-14/39	
	37782	R309-110	NSC	07/19/2013	Not Printed	
	37783	R309-115	NSC	07/19/2013	Not Printed	
	37789	R309-200	NSC	07/19/2013	Not Printed	
	37786	R309-205	NSC	07/19/2013	Not Printed	
	37784	R309-210	NSC	07/19/2013	Not Printed	
	37788	R309-215	NSC	07/19/2013	Not Printed	
	37785	R309-220	NSC	07/19/2013	Not Printed	
	37787	R309-225	NSC	07/19/2013	Not Printed	
	37858	R309-300	AMD	11/13/2013	2013-15/30	
	37859	R309-305	AMD	11/13/2013	2013-15/36	
	37796	R309-400	AMD	10/12/2013	2013-14/45	
	37797	R309-405	AMD	10/12/2013	2013-14/51	
	37722	R309-500	AMD	08/28/2013	2013-13/73	
	37723	R309-505	NSC	07/09/2013	Not Printed	
	37724	R309-510	AMD	08/28/2013	2013-13/77	
	37725	R309-511	AMD	08/28/2013	2013-13/81	
	37726	R309-515	AMD	08/28/2013	2013-13/84	
	36562	R309-515-6	AMD	01/16/2013	2012-16/66	
	36562	R309-515-6	CPR	01/16/2013	2012-23/70	
	37727	R309-520	AMD	08/28/2013	2013-13/93	
	37728	R309-525	AMD	08/28/2013	2013-13/103	
	37729	R309-530	AMD	08/28/2013	2013-13/114	
	37730	R309-535	AMD	08/28/2013	2013-13/117	
	37731	R309-540	NSC	07/09/2013	Not Printed	
	37732	R309-545	NSC	07/09/2013	Not Printed	
	37733	R309-550	NSC	07/09/2013	Not Printed	
	37721	R309-600	NSC	07/09/2013	Not Printed	
	37720	R309-605	NSC	07/09/2013	Not Printed	
	37747	R309-800	NSC	07/09/2013	Not Printed	
<u>drip irrigation</u>						
Environmental Quality, Water Quality	37857	R317-401	AMD	09/24/2013	2013-15/108	
<u>driver education</u>						
Education, Administration	37498	R277-746	5YR	04/08/2013	2013-9/33	
<u>driver license restrictions</u>						
Public Safety, Driver License	37933	R708-10	R&R	10/22/2013	2013-18/36	
<u>driver license verification</u>						
Public Safety, Driver License	38022	R708-43	R&R	11/21/2013	2013-20/44	
<u>driver licenses</u>						
Human Services, Recovery Services	37303	R527-260	5YR	02/14/2013	2013-5/210	
<u>drug abuse</u>						
Human Resource Management, Administration	37573	R477-14	AMD	07/01/2013	2013-10/178	
<u>drug/alcohol education</u>						
Human Resource Management, Administration	37573	R477-14	AMD	07/01/2013	2013-10/178	
<u>dual employment</u>						
Human Resource Management, Administration	37567	R477-8	AMD	07/01/2013	2013-10/167	

RULES INDEX

<u>dumping of wastes</u>						
Environmental Quality, Water Quality	38067	R317-550	NSC	11/06/2013	Not Printed	
<u>duplicate license</u>						
Public Safety, Driver License	37657	R708-45	EMR	05/23/2013	2013-12/45	
	37718	R708-45	R&R	08/08/2013	2013-13/202	
<u>durable medical equipment</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	37528	R414-70	AMD	07/01/2013	2013-10/144	
<u>early intervention</u>						
Education, Administration	37741	R277-489	AMD	08/07/2013	2013-13/46	
Health, Family Health and Preparedness, Children with Special Health Care Needs	37827	R398-20	EXT	07/09/2013	2013-15/135	
	37892	R398-20	5YR	08/02/2013	2013-17/50	
<u>economic development</u>						
Governor, Economic Development	37666	R357-3	5YR	05/30/2013	2013-12/52	
	37208	R357-6	AMD	05/01/2013	2013-4/15	
	37207	R357-9	AMD	05/01/2013	2013-4/16	
<u>economics</u>						
Education, Administration	38110	R277-704	5YR	11/08/2013	2013-23/63	
<u>education</u>						
Education, Administration	37755	R277-407-2	NSC	07/19/2013	Not Printed	
	37735	R277-407-3	AMD	08/07/2013	2013-13/28	
	37736	R277-422-3	AMD	08/07/2013	2013-13/29	
	37885	R277-470	5YR	08/02/2013	2013-17/46	
	37923	R277-470	AMD	10/08/2013	2013-17/7	
	37405	R277-709	5YR	03/12/2013	2013-7/64	
	37244	R277-709-3	NSC	02/15/2013	Not Printed	
Health, Family Health and Preparedness, Children with Special Health Care Needs	37827	R398-20	EXT	07/09/2013	2013-15/135	
	37892	R398-20	5YR	08/02/2013	2013-17/50	
<u>education finance</u>						
Education, Administration	37884	R277-425	5YR	08/02/2013	2013-17/45	
	37922	R277-425	AMD	10/08/2013	2013-17/6	
<u>educational administration</u>						
Education, Administration	38182	R277-116	5YR	12/16/2013	Not Printed	
<u>educational facilities</u>						
Education, Administration	37756	R277-445-2	NSC	07/19/2013	Not Printed	
	37278	R277-445-3	AMD	04/08/2013	2013-5/13	
	37737	R277-445-3	AMD	08/07/2013	2013-13/30	
<u>educational policy</u>						
Regents (Board Of), Administration	37553	R765-555	5YR	04/29/2013	2013-10/217	
<u>educational testing</u>						
Education, Administration	38004	R277-473	REP	11/07/2013	2013-19/27	
	37404	R277-702	5YR	03/12/2013	2013-7/64	
	37415	R277-702	AMD	05/16/2013	2013-7/26	
<u>educational tuition</u>						
Human Resource Management, Administration	37569	R477-10-3	AMD	07/01/2013	2013-10/172	
<u>educator license</u>						
Professional Practices Advisory Commission, Administration	38011	R686-103	AMD	11/07/2013	2013-19/127	
<u>educator licenses</u>						
Professional Practices Advisory Commission, Administration	37863	R686-104	NSC	09/10/2013	Not Printed	

<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
	38006	R277-502	AMD	11/07/2013	2013-19/32
	38126	R277-502-3	NSC	12/12/2013	Not Printed
<u>educators</u>					
Education, Administration	37279	R277-498	NEW	04/08/2013	2013-5/14
	37507	R277-498-4	NSC	04/29/2013	Not Printed
	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
	37537	R277-531-3	AMD	06/24/2013	2013-10/26
<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>efficiency</u>					
Administrative Services, Facilities Construction and Management	37845	R23-30	5YR	07/15/2013	2013-15/123
	37848	R23-30	AMD	09/10/2013	2013-15/8
<u>effluent standards</u>					
Environmental Quality, Water Quality	37851	R317-1	AMD	09/24/2013	2013-15/41
	37366	R317-1-1	AMD	08/19/2013	2013-6/32
	37366	R317-1-1	CPR	08/19/2013	2013-14/92
	37240	R317-13	5YR	01/31/2013	2013-4/51
	38065	R317-13	NSC	11/04/2013	Not Printed
<u>elderly</u>					
Human Services, Aging and Adult Services	37228	R510-104-11	AMD	04/15/2013	2013-4/18
	38070	R510-401-6	NSC	11/06/2013	Not Printed
<u>electric assisted bicycle headgear</u>					
Public Safety, Driver License	37612	R708-33	REP	07/08/2013	2013-11/49
<u>electric generating units</u>					
Environmental Quality, Air Quality	37258	R307-220	5YR	02/06/2013	2013-5/193
	37254	R307-224	5YR	02/06/2013	2013-5/195
<u>electric utility industries</u>					
Public Service Commission, Administration	37759	R746-210	5YR	06/24/2013	2013-14/119
<u>electrologists</u>					
Commerce, Occupational and Professional Licensing	37697	R156-11a	AMD	08/08/2013	2013-13/3
<u>electronic devices</u>					
Education, Administration	38188	R277-495	5YR	12/16/2013	Not Printed
<u>electronic funds transfer</u>					
Human Services, Recovery Services	37550	R527-920	5YR	04/29/2013	2013-10/214
<u>electronic meetings</u>					
Agriculture and Food, Conservation and Resource Management	37698	R64-2	5YR	06/04/2013	2013-13/229
	37680	R64-2	AMD	08/21/2013	2013-13/2
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>electronic surveillance</u>					
Human Services, Services for People with Disabilities	37163	R539-3	AMD	05/10/2013	2013-2/21

RULES INDEX

eligibility

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
	37881	R414-308-4	AMD	10/01/2013	2013-16/15

emergency medical services

Health, Family Health and Preparedness, Emergency Medical Services	37681	R426-1	NEW	10/18/2013	2013-13/130
	37397	R426-2	EXD	02/24/2013	2013-7/71
	37409	R426-2	EMR	03/14/2013	2013-7/55
	37411	R426-2	NEW	05/30/2013	2013-7/32
	37682	R426-2	NEW	10/18/2013	2013-13/133
	38078	R426-2	NSC	11/01/2013	Not Printed
	37683	R426-3	NEW	10/18/2013	2013-13/137
	37684	R426-4	NEW	10/18/2013	2013-13/141
	37685	R426-5	R&R	10/18/2013	2013-13/155
	37398	R426-6	EXD	03/01/2013	2013-7/71
	37408	R426-6	EMR	03/14/2013	2013-7/59
	37410	R426-6	NEW	05/30/2013	2013-7/36
	37686	R426-6	R&R	10/18/2013	2013-13/165
	37687	R426-7	R&R	10/18/2013	2013-13/168
	37688	R426-8	R&R	10/18/2013	2013-13/176
	37689	R426-9	NEW	10/18/2013	2013-13/178
	37690	R426-11	REP	10/18/2013	2013-13/182
	37691	R426-12	REP	10/18/2013	2013-13/184
	37692	R426-13	REP	10/18/2013	2013-13/185
	37693	R426-14	REP	10/18/2013	2013-13/187
	37694	R426-15	REP	10/18/2013	2013-13/191
	37695	R426-16	REP	10/18/2013	2013-13/191

emergency vehicles

Public Safety, Criminal Investigations and Technical Services, Criminal Identification	37532	R722-340	5YR	04/22/2013	2013-10/215
	37590	R722-340	NSC	05/31/2013	Not Printed
Public Safety, Peace Officer Standards and Training	38128	R728-503	5YR	11/12/2013	2013-23/66

emission controls

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
	37830	R307-350	AMD	12/03/2013	2013-15/24
	37830	R307-350	CPR	12/03/2013	2013-21/68
	36734	R307-352	NEW	02/01/2013	2012-19/84
	36734	R307-352	CPR	02/01/2013	2013-1/73
	36735	R307-353	NEW	05/01/2013	2012-19/86
	36735	R307-353	CPR	05/01/2013	2013-1/75
	36735	R307-353	CPR	05/01/2013	2013-7/46
	37704	R307-361	NEW	10/31/2013	2013-13/64
	37704	R307-361	CPR	10/31/2013	2013-19/138

employee benefit plans

Human Resource Management, Administration	37565	R477-6	AMD	07/01/2013	2013-10/160
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<u>employee performance evaluations</u>						
Human Resource Management, Administration	37569	R477-10-3	AMD	07/01/2013	2013-10/172	
<u>employee productivity</u>						
Human Resource Management, Administration	37569	R477-10-3	AMD	07/01/2013	2013-10/172	
<u>employee termination</u>						
Workforce Services, Unemployment Insurance	37648	R994-405	5YR	05/16/2013	2013-12/60	
<u>employee's rights</u>						
Workforce Services, Unemployment Insurance	37648	R994-405	5YR	05/16/2013	2013-12/60	
<u>employees' rights</u>						
Human Resource Management, Administration	37571	R477-12	AMD	07/01/2013	2013-10/175	
<u>employers</u>						
Labor Commission, Industrial Accidents	37133	R612-5	REP	02/25/2013	2013-2/46	
<u>employment</u>						
Corrections, Administration	38030	R251-105	5YR	09/30/2013	2013-20/50	
Human Resource Management, Administration	37563	R477-4	AMD	07/01/2013	2013-10/157	
	37564	R477-5	AMD	07/01/2013	2013-10/159	
Workforce Services, Unemployment Insurance	37543	R994-202	5YR	04/25/2013	2013-10/218	
	37648	R994-405	5YR	05/16/2013	2013-12/60	
<u>employment support procedures</u>						
Workforce Services, Employment Development	37644	R986-100-117	AMD	09/10/2013	2013-12/36	
	37541	R986-100-118a	AMD	06/27/2013	2013-10/200	
<u>EMS competitive grants</u>						
Health, Family Health and Preparedness, Emergency Medical Services	37408	R426-6	EMR	03/14/2013	2013-7/59	
	37410	R426-6	NEW	05/30/2013	2013-7/36	
<u>energy</u>						
Administrative Services, Facilities Construction and Management	37845	R23-30	5YR	07/15/2013	2013-15/123	
	37848	R23-30	AMD	09/10/2013	2013-15/8	
<u>enforcement</u>						
Commerce, Real Estate	37678	R162-2c	AMD	08/07/2013	2013-12/9	
	37949	R162-2c-204	AMD	11/20/2013	2013-18/22	
Environmental Quality, Radiation Control	37190	R313-14	AMD	03/19/2013	2013-3/14	
<u>enforcement (administrative)</u>						
Lieutenant Governor, Administration	37910	R622-1	5YR	08/09/2013	2013-17/57	
Transportation, Administration	38055	R907-1-6	AMD	12/09/2013	2013-21/29	
<u>English proficiency</u>						
Regents (Board Of), Administration	37551	R765-136	5YR	04/29/2013	2013-10/216	
<u>enrollment</u>						
Education, Administration	37496	R277-485	5YR	04/08/2013	2013-9/32	
<u>enrollment options</u>						
Education, Administration	38184	R277-437	5YR	12/16/2013	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 health</u>						
Environmental Quality, Drinking Water	37721	R309-600	NSC	07/09/2013	Not Printed	
	37720	R309-605	NSC	07/09/2013	Not Printed	

RULES INDEX

<u>environmental protection</u>						
Environmental Quality, Air Quality	37260	R307-115	5YR	02/06/2013	2013-5/192	
Environmental Quality, Drinking Water	37781	R309-100	NSC	07/19/2013	Not Printed	
	37858	R309-300	AMD	11/13/2013	2013-15/30	
	37796	R309-400	AMD	10/12/2013	2013-14/45	
	37797	R309-405	AMD	10/12/2013	2013-14/51	
<u>equipment</u>						
Environmental Quality, Water Quality	37856	R317-12	AMD	09/24/2013	2013-15/107	
<u>estheticians</u>						
Commerce, Occupational and Professional Licensing	37697	R156-11a	AMD	08/08/2013	2013-13/3	
<u>evaluation cycles</u>						
Judicial Performance Evaluation Commission, Administration	37382	R597-3	AMD	05/14/2013	2013-7/38	
<u>evaluations</u>						
Education, Administration	37537	R277-531-3	AMD	06/24/2013	2013-10/26	
	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	
	37463	R671-517	AMD	05/22/2013	2013-8/33	
<u>evidentiary restrictions</u>						
Commerce, Occupational and Professional Licensing	37395	R156-1	NSC	04/01/2013	Not Printed	
	37754	R156-1	AMD	08/22/2013	2013-14/21	
	38020	R156-1	AMD	11/21/2013	2013-20/17	
	37199	R156-1-102	AMD	03/11/2013	2013-3/2	
<u>exceptional children</u>						
Education, Administration	37499	R277-751	5YR	04/08/2013	2013-9/33	
	37511	R277-751	AMD	06/07/2013	2013-9/10	
<u>excess emissions</u>						
Environmental Quality, Air Quality	37902	R307-107	5YR	08/08/2013	2013-17/49	
<u>exemptions</u>						
Environmental Quality, Radiation Control	37189	R313-12	AMD	03/19/2013	2013-3/6	
	37597	R313-12-3	NSC	06/07/2013	Not Printed	
	37194	R313-19	AMD	03/19/2013	2013-3/45	
<u>expansion</u>						
Education, Administration	37887	R277-482	5YR	08/02/2013	2013-17/47	
	37925	R277-482	AMD	10/08/2013	2013-17/13	
<u>expelled</u>						
Education, Administration	37495	R277-483	5YR	04/08/2013	2013-9/31	
<u>expenses</u>						
Public Safety, Homeland Security	37170	R704-1	NSC	01/23/2013	Not Printed	
<u>extended area service</u>						
Public Service Commission, Administration	37386	R746-347	5YR	03/05/2013	2013-7/68	
<u>extracurricular</u>						
Education, Administration	38041	R277-494	5YR	10/04/2013	2013-21/71	
	38042	R277-494	AMD	12/09/2013	2013-21/6	
<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	
	37453	R384-201	AMD	07/01/2013	2013-8/6	
<u>eyeglasses</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	37591	R414-53	5YR	05/03/2013	2013-11/101	
<u>fabric 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>facilities</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	38160	R414-9	5YR	12/02/2013	2013-24/45	
Human Services, Substance Abuse and Mental Health, State Hospital	37973	R525-8	NSC	09/30/2013	Not Printed	
<u>facilities use</u>						
Capitol Preservation Board (State), Administration	37064	R131-2	AMD	01/07/2013	2012-23/9	
	37799	R131-2-6	AMD	08/21/2013	2013-14/17	
<u>facility notice</u>						
Corrections, Administration	37389	R251-114	5YR	03/07/2013	2013-7/61	
<u>factory built housing</u>						
Commerce, Occupational and Professional Licensing	37753	R156-56-403	AMD	08/22/2013	2013-14/27	
<u>fair employment practices</u>						
Human Resource Management, Administration	37562	R477-2	AMD	07/01/2013	2013-10/155	
	37563	R477-4	AMD	07/01/2013	2013-10/157	
<u>fair hearings</u>						
Health, Children's Health Insurance Program	37608	R382-1	5YR	05/08/2013	2013-11/100	
<u>falconry</u>						
Natural Resources, Wildlife Resources	37233	R657-20	AMD	04/23/2013	2013-4/26	
	37534	R657-20	NSC	05/17/2013	Not Printed	
<u>family employment program</u>						
Workforce Services, Employment Development	37991	R986-200	AMD	11/14/2013	2013-19/133	
<u>fathers</u>						
Health, Center for Health Data, Vital Records and Statistics	37424	R436-3	5YR	03/21/2013	2013-8/57	
<u>feed contamination</u>						
Agriculture and Food, Plant Industry	37632	R68-2	NSC	06/07/2013	Not Printed	
<u>fees</u>						
Environmental Quality, Environmental Response and Remediation	37483	R311-203	NSC	04/29/2013	Not Printed	
Environmental Quality, Radiation Control	37188	R313-70	NSC	01/31/2013	Not Printed	
Financial Institutions, Nondepository Lenders	37864	R343-9	NEW	09/23/2013	2013-16/8	
Health, Center for Health Data, Vital Records and Statistics	37433	R436-15	5YR	03/21/2013	2013-8/62	
Labor Commission, Industrial Accidents	37130	R612-2	REP	02/25/2013	2013-2/35	
	37126	R612-300	NEW	02/25/2013	2013-2/66	
	38036	R612-300	R&R	11/22/2013	2013-20/26	
Natural Resources, Parks and Recreation	37791	R651-610	5YR	06/27/2013	2013-14/112	
	37625	R651-611	AMD	07/08/2013	2013-11/40	
<u>filing deadlines</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	

RULES INDEX

Workforce Services, Unemployment Insurance	37622	R612-200-1	AMD	07/08/2013	2013-11/34
	37647	R994-403	5YR	05/16/2013	2013-12/60
	37517	R994-403	AMD	06/12/2013	2013-9/23
	37877	R994-403-108b	AMD	09/25/2013	2013-16/50
	37671	R994-403-115c	AMD	08/01/2013	2013-12/38
<u>film 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>filtration</u>					
Environmental Quality, Drinking Water	37728	R309-525	AMD	08/28/2013	2013-13/103
<u>finance</u>					
Administrative Services, Finance	37522	R25-6	5YR	04/15/2013	2013-9/29
	37524	R25-8	5YR	04/15/2013	2013-9/30
Education, Administration	37557	R25-8	AMD	06/21/2013	2013-10/12
	37736	R277-422-3	AMD	08/07/2013	2013-13/29
<u>financial</u>					
Education, Administration	38110	R277-704	5YR	11/08/2013	2013-23/63
<u>financial aid</u>					
Regents (Board Of), Administration	37539	R765-605	5YR	04/24/2013	2013-10/217
	37547	R765-605	AMD	06/24/2013	2013-10/195
<u>financial assistance</u>					
Environmental Quality, Drinking Water	37749	R309-705	NSC	07/09/2013	Not Printed
<u>financial disclosures</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	37217	R414-304	5YR	01/23/2013	2013-4/54
<u>financial institutions</u>					
Financial Institutions, Administration	38023	R331-14	NSC	10/08/2013	Not Printed
	37939	R331-20	5YR	08/23/2013	2013-18/62
	37940	R331-21	5YR	08/23/2013	2013-18/63
	37941	R331-24	5YR	08/23/2013	2013-18/63
	38060	R331-25	5YR	10/11/2013	2013-21/73
<u>financial reimbursement</u>					
Public Safety, Homeland Security	37170	R704-1	NSC	01/23/2013	Not Printed
<u>financial responsibility</u>					
Environmental Quality, Environmental Response and Remediation	37579	R311-207	NSC	05/17/2013	Not Printed
<u>fire safe cigarettes</u>					
Public Safety, Fire Marshal	38131	R710-13	5YR	11/13/2013	2013-23/66
<u>fiscal policies and procedures</u>					
Education, Administration	37356	R277-113	NEW	04/22/2013	2013-6/28
	37999	R277-113	AMD	11/07/2013	2013-19/14
	37538	R277-113-5	NSC	05/17/2013	Not Printed
<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
	37895	R657-59	5YR	08/05/2013	2013-17/59
	37896	R657-60	5YR	08/05/2013	2013-17/59
	37981	R657-60	AMD	11/07/2013	2013-19/96
<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>floculation</u>						
Environmental Quality, Drinking Water	37728	R309-525	AMD	08/28/2013	2013-13/103	
<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 handler certificates</u>						
Health, Disease Control and Prevention, Environmental Services	37589	R392-103	NEW	08/01/2013	2013-11/28	
	38063	R392-103	NSC	11/11/2013	Not Printed	
<u>food handler permits</u>						
Health, Disease Control and Prevention, Environmental Services	37589	R392-103	NEW	08/01/2013	2013-11/28	
	38063	R392-103	NSC	11/11/2013	Not Printed	
<u>food handler testing</u>						
Health, Disease Control and Prevention, Environmental Services	37589	R392-103	NEW	08/01/2013	2013-11/28	
	38063	R392-103	NSC	11/11/2013	Not Printed	
<u>food handler training</u>						
Health, Disease Control and Prevention, Environmental Services	37589	R392-103	NEW	08/01/2013	2013-11/28	
	38063	R392-103	NSC	11/11/2013	Not Printed	
<u>food inspection</u>						
Agriculture and Food, Regulatory Services	38197	R70-630	5YR	12/19/2013	Not Printed	
<u>food inspections</u>						
Agriculture and Food, Regulatory Services	38142	R70-410	EMR	11/15/2013	2013-23/59	
<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>forensic</u>						
Human Services, Substance Abuse and Mental Health, State Hospital	37973	R525-8	NSC	09/30/2013	Not Printed	
<u>foster care</u>						
Human Services, Child and Family Services	37931	R512-309	5YR	08/15/2013	2013-17/54	
<u>free enterprise</u>						
Regents (Board Of), Administration	37553	R765-555	5YR	04/29/2013	2013-10/217	
<u>funding</u>						
Environmental Quality, Drinking Water	37747	R309-800	NSC	07/09/2013	Not Printed	
<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>furbearers</u>						
Natural Resources, Wildlife Resources	37977	R657-11	AMD	11/07/2013	2013-19/91	
<u>game laws</u>						
Natural Resources, Wildlife Resources	37978	R657-10	AMD	11/07/2013	2013-19/90	

RULES INDEX

	37977	R657-11	AMD	11/07/2013	2013-19/91
	37893	R657-19	5YR	08/05/2013	2013-17/58
	37592	R657-34	5YR	05/06/2013	2013-11/103
	37609	R657-64	AMD	07/08/2013	2013-11/48
<u>gangs</u>					
Education, Administration	37627	R277-436	5YR	05/15/2013	2013-11/97
<u>general assistance</u>					
Workforce Services, Employment Development	37947	R986-400	AMD	11/01/2013	2013-18/49
<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
	38039	R313-21	5YR	10/04/2013	2013-21/71
<u>genetic counselors</u>					
Commerce, Occupational and Professional Licensing	37533	R156-75	AMD	06/24/2013	2013-10/15
<u>goals</u>					
Education, Administration	37709	R277-406	5YR	06/10/2013	2013-13/230
	37734	R277-406	AMD	08/07/2013	2013-13/26
<u>good cause</u>					
Pardons (Board Of), Administration	37348	R671-515	5YR	02/15/2013	2013-5/215
	37461	R671-515	AMD	05/22/2013	2013-8/31
<u>government documents</u>					
Administrative Services, Records Committee	37773	R35-1-3	AMD	08/30/2013	2013-14/8
<u>government ethics</u>					
Human Resource Management, Administration	37568	R477-9	AMD	07/01/2013	2013-10/170
<u>government hearings</u>					
Commerce, Corporations and Commercial Code	38024	R154-100	5YR	09/26/2013	2013-20/49
Commerce, Occupational and Professional Licensing	38021	R156-46b-202	AMD	11/21/2013	2013-20/21
	38153	R156-46b-202	NSC	12/12/2013	Not Printed
Financial Institutions, Administration	37939	R331-20	5YR	08/23/2013	2013-18/62
Human Resource Management, Administration	37570	R477-11	AMD	07/01/2013	2013-10/173
<u>government purchasing</u>					
Administrative Services, Purchasing and General Services	37633	R33-3-3	EMR	05/15/2013	2013-11/81
	37837	R33-3-3	AMD	10/24/2013	2013-15/12
<u>government records</u>					
Corrections, Administration	37828	R251-111	EXD	07/09/2013	2013-15/137
<u>grading system</u>					
Education, Administration	38109	R277-497	5YR	11/08/2013	2013-23/63
<u>GRAMA</u>					
Corrections, Administration	37828	R251-111	EXD	07/09/2013	2013-15/137
Regents (Board Of), University of Utah, Administration	37824	R805-2	5YR	07/08/2013	2013-15/134
<u>GRAMA compliance</u>					
Human Services, Recovery Services	37668	R527-5-3	AMD	07/22/2013	2013-12/30
<u>grants</u>					
Education, Administration	37711	R277-490	5YR	06/10/2013	2013-13/231
	37742	R277-490	AMD	08/07/2013	2013-13/48
	37279	R277-498	NEW	04/08/2013	2013-5/14
	37507	R277-498-4	NSC	04/29/2013	Not Printed
	37744	R277-606	REP	08/07/2013	2013-13/55

Health, Family Health and Preparedness, Primary Care and Rural Health	38192	R434-40	EXD	12/16/2013	Not Printed
Heritage and Arts, Arts and Museums, Museum Services	37846	R452-200	EMR	07/15/2013	2013-15/121
<u>grants and loans</u>					
Environmental Quality, Administration	37847	R305-4	5YR	07/15/2013	2013-15/126
	38048	R305-4-5	AMD	12/19/2013	2013-21/7
Environmental Quality, Air Quality	37901	R307-123	5YR	08/08/2013	2013-17/50
	37989	R307-123	AMD	12/05/2013	2013-19/45
<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
	38015	R307-351-2	NSC	10/08/2013	Not Printed
	37235	R307-351-4	NSC	02/15/2013	Not Printed
<u>graywater</u>					
Environmental Quality, Water Quality	37857	R317-401	AMD	09/24/2013	2013-15/108
<u>greenhouse gases</u>					
Environmental Quality, Air Quality	37831	R307-401-7	AMD	10/03/2013	2013-15/27
	37037	R307-401-15	AMD	02/07/2013	2012-23/40
	37236	R307-401-15	NSC	02/15/2013	Not Printed
	37268	R307-401-19	AMD	07/01/2013	2013-5/36
	37268	R307-401-19	CPR	07/01/2013	2013-11/72
	37269	R307-401-20	AMD	07/01/2013	2013-5/36
	37269	R307-401-20	CPR	07/01/2013	2013-11/72
<u>grievance procedures</u>					
Career Service Review Office, Administration	37607	R137-1	AMD	07/22/2013	2013-11/10
Tax Commission, Administration	38016	R861-1A-9	NSC	10/08/2013	Not Printed
	36991	R861-1A-12	AMD	01/10/2013	2012-22/144
	37104	R861-1A-26	AMD	02/21/2013	2013-1/15
	37935	R861-1A-29	AMD	10/24/2013	2013-18/40
	37106	R861-1A-37	AMD	02/21/2013	2013-1/17
	37107	R861-1A-46	AMD	02/21/2013	2013-1/18
<u>grievances</u>					
Human Resource Management, Administration	37570	R477-11	AMD	07/01/2013	2013-10/173
	37571	R477-12	AMD	07/01/2013	2013-10/175
<u>ground water</u>					
Environmental Quality, Water Quality	37854	R317-6	AMD	09/24/2013	2013-15/85
	37961	R317-6-6	AMD	10/24/2013	2013-18/26
<u>harassment</u>					
Education, Administration	37928	R277-613	AMD	10/08/2013	2013-17/23
<u>harassment prevention</u>					
Human Resource Management, Administration	37574	R477-15	AMD	07/01/2013	2013-10/180
<u>hardship grants</u>					
Environmental Quality, Drinking Water	37748	R309-700	NSC	07/09/2013	Not Printed
<u>Hatch Act</u>					
Human Resource Management, Administration	37568	R477-9	AMD	07/01/2013	2013-10/170
<u>hatchery</u>					
Agriculture and Food, Animal Industry	37248	R58-6	R&R	03/25/2013	2013-4/6
<u>hazardous air pollutant</u>					
Environmental Quality, Air Quality	37703	R307-214	AMD	09/12/2013	2013-13/60
<u>hazardous materials</u>					
Public Safety, Fire Marshal	37390	R710-12	5YR	03/08/2013	2013-7/67

RULES INDEX

<u>hazardous materials transportation</u>					
Transportation, Motor Carrier	37875	R909-75	AMD	09/23/2013	2013-16/38
<u>hazardous substances</u>					
Environmental Quality, Environmental Response and Remediation	37482	R311-201	NSC	04/29/2013	Not Printed
	37483	R311-203	NSC	04/29/2013	Not Printed
	37484	R311-204	NSC	04/29/2013	Not Printed
	37486	R311-206	NSC	04/29/2013	Not Printed
	37491	R311-212	NSC	04/29/2013	Not Printed
Transportation, Motor Carrier	37875	R909-75	AMD	09/23/2013	2013-16/38
<u>hazardous waste</u>					
Environmental Quality, Solid and Hazardous Waste	37305	R315-1	AMD	04/25/2013	2013-5/45
	37306	R315-2	AMD	04/25/2013	2013-5/48
	37307	R315-3	AMD	04/25/2013	2013-5/63
	37308	R315-4	AMD	04/25/2013	2013-5/64
	37309	R315-5	AMD	04/25/2013	2013-5/69
	37310	R315-6	AMD	04/25/2013	2013-5/73
	37311	R315-7	AMD	04/25/2013	2013-5/76
	37312	R315-8	AMD	04/25/2013	2013-5/99
	37313	R315-9	AMD	04/25/2013	2013-5/100
	37314	R315-12	AMD	04/25/2013	2013-5/101
	37315	R315-13	AMD	04/25/2013	2013-5/102
	37317	R315-16	AMD	04/25/2013	2013-5/103
	37318	R315-17	AMD	04/25/2013	2013-5/107
	37319	R315-50-6	AMD	04/25/2013	2013-5/109
	37320	R315-101	AMD	04/25/2013	2013-5/110
	37321	R315-102	AMD	04/25/2013	2013-5/113
Transportation, Motor Carrier	37875	R909-75	AMD	09/23/2013	2013-16/38
<u>hazing</u>					
Education, Administration	37891	R277-613	5YR	08/02/2013	2013-17/49
	37928	R277-613	AMD	10/08/2013	2013-17/23
<u>head injuries</u>					
Education, Administration	37630	R277-614	5YR	05/15/2013	2013-11/99
	37635	R277-614	AMD	07/08/2013	2013-11/23
<u>health care</u>					
Health, Family Health and Preparedness, Children with Special Health Care Needs	37381	R398-1	AMD	07/01/2013	2013-7/28
<u>health care facilities</u>					
Health, Family Health and Preparedness, Licensing	37912	R432-1	5YR	08/12/2013	2013-17/51
	37913	R432-2	5YR	08/12/2013	2013-17/52
	37209	R432-3	AMD	04/24/2013	2013-4/17
	37914	R432-3	5YR	08/12/2013	2013-17/52
	37915	R432-4	5YR	08/12/2013	2013-17/53
	37916	R432-5	5YR	08/12/2013	2013-17/53
	37917	R432-6	5YR	08/12/2013	2013-17/54
	37281	R432-16	5YR	02/11/2013	2013-5/209
	37441	R432-35	5YR	03/25/2013	2013-8/55
<u>health effects</u>					
Environmental Quality, Drinking Water	37785	R309-220	NSC	07/19/2013	Not Printed
<u>health facilities</u>					
Health, Center for Health Data, Vital Records and Statistics	37428	R436-9	5YR	03/21/2013	2013-8/59
<u>health insurance</u>					
Insurance, Administration	38200	R590-249	5YR	12/23/2013	Not Printed
<u>hearing aids</u>					
Health, Family Health and Preparedness, Children with Special Health Care Needs	37899	R398-3	NEW	10/15/2013	2013-17/31

<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, Drinking Water	37783	R309-115	NSC	07/19/2013	Not Printed
Environmental Quality, Radiation Control	37192	R313-17	AMD	03/19/2013	2013-3/40
Environmental Quality, Solid and Hazardous Waste	37314	R315-12	AMD	04/25/2013	2013-5/101
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
	37880	R414-301	AMD	10/01/2013	2013-16/11
Labor Commission, Adjudication	38115	R602-4	5YR	11/08/2013	2013-23/64
	38112	R602-5	5YR	11/08/2013	2013-23/65
	38143	R602-5	NSC	12/12/2013	Not Printed
	38108	R602-6	5YR	11/08/2013	2013-23/65
Pardons (Board Of), Administration	37346	R671-513	5YR	02/15/2013	2013-5/214
	37459	R671-513	AMD	05/22/2013	2013-8/28
	37349	R671-516	5YR	02/15/2013	2013-5/215
	37462	R671-516	AMD	05/22/2013	2013-8/32
	37350	R671-517	5YR	02/15/2013	2013-5/216
	37463	R671-517	AMD	05/22/2013	2013-8/33
	37352	R671-519	5YR	02/15/2013	2013-5/217
	37464	R671-519	AMD	05/22/2013	2013-8/35
	37353	R671-520	5YR	02/15/2013	2013-5/217
	37465	R671-520	AMD	05/22/2013	2013-8/36
	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
	38008	R686-100	R&R	11/07/2013	2013-19/101
	38127	R686-100-1	NSC	12/12/2013	Not Printed
	38009	R686-101	NEW	11/07/2013	2013-19/117
	38010	R686-102	NEW	11/07/2013	2013-19/124
<u>high quality ground water</u>					
Environmental Quality, Drinking Water	37723	R309-505	NSC	07/09/2013	Not Printed
<u>higher education</u>					
Education, Administration	37808	R277-713	AMD	08/26/2013	2013-14/34
Regents (Board Of), Administration	37551	R765-136	5YR	04/29/2013	2013-10/216
	37552	R765-254	5YR	04/29/2013	2013-10/216
	37553	R765-555	5YR	04/29/2013	2013-10/217
	37586	R765-604	AMD	07/08/2013	2013-11/61
	37539	R765-605	5YR	04/24/2013	2013-10/217
	37547	R765-605	AMD	06/24/2013	2013-10/195
	37587	R765-609	AMD	07/08/2013	2013-11/65
Regents (Board Of), University of Utah, Administration	37824	R805-2	5YR	07/08/2013	2013-15/134
<u>higher education assistance</u>					
Regents (Board Of), Administration	37540	R765-606	5YR	04/24/2013	2013-10/218
<u>highways</u>					
Transportation, Administration	37953	R907-67	5YR	09/03/2013	2013-18/65
Transportation, Program Development	37954	R926-10	5YR	09/03/2013	2013-18/65
	38051	R926-14	AMD	12/09/2013	2013-21/32
<u>HIPAA</u>					
Health, Administration	37596	R380-250	5YR	05/06/2013	2013-11/99
	37679	R380-250	AMD	08/07/2013	2013-13/122
Human Services, Administration	37525	R495-881	5YR	04/15/2013	2013-9/34
<u>hiring practices</u>					
Human Resource Management, Administration	37563	R477-4	AMD	07/01/2013	2013-10/157

RULES INDEX

<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>holidays</u>						
Human Resource Management, Administration	37566	R477-7	AMD	07/01/2013	2013-10/163	
<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	
	37860	R52-7	EMR	07/18/2013	2013-16/61	
	38019	R52-7	AMD	12/11/2013	2013-20/6	
<u>hospitals</u>						
Environmental Quality, Air Quality	37256	R307-222	5YR	02/06/2013	2013-5/194	
<u>hostile work environment</u>						
Human Resource Management, Administration	37574	R477-15	AMD	07/01/2013	2013-10/180	
<u>hourly child care centers</u>						
Health, Family Health and Preparedness, Child Care Licensing	37662	R430-60	5YR	05/29/2013	2013-12/54	
	37777	R430-60-7	AMD	09/01/2013	2013-14/74	
<u>hours of business</u>						
Labor Commission, Administration	37621	R600-2	AMD	07/08/2013	2013-11/33	
	37866	R600-2	AMD	09/23/2013	2013-16/36	
<u>human services</u>						
Human Services, Administration, Administrative Services, Licensing	37900	R501-7	AMD	11/27/2013	2013-17/35	
Human Services, Services for People with Disabilities	37110	R539-1	AMD	02/13/2013	2013-1/2	
	37245	R539-1-3	AMD	04/18/2013	2013-4/21	
<u>hunting closures</u>						
Natural Resources, Wildlife Resources	37592	R657-34	5YR	05/06/2013	2013-11/103	
<u>hybrid vehicles</u>						
Transportation, Program Development	38056	R926-11	AMD	12/09/2013	2013-21/30	
	38194	R926-11	5YR	12/18/2013	Not Printed	
<u>hydraulic modeling</u>						
Environmental Quality, Drinking Water	37725	R309-511	AMD	08/28/2013	2013-13/81	
<u>hydropneumatic systems</u>						
Environmental Quality, Drinking Water	37731	R309-540	NSC	07/09/2013	Not Printed	
<u>IEEE 1366</u>						
Public Service Commission, Administration	37116	R746-313	AMD	02/21/2013	2013-2/87	
<u>immunizations</u>						
Health, Disease Control and Prevention, Immunization	37806	R396-100	5YR	06/28/2013	2013-14/105	
<u>impairment ratings</u>						
Labor Commission, Industrial Accidents	37135	R612-7	REP	02/25/2013	2013-2/49	
<u>implements of husbandry</u>						
Transportation, Motor Carrier	37996	R909-1	AMD	11/07/2013	2013-19/129	
	38137	R909-1-8	NSC	12/12/2013	Not Printed	

<u>import restrictions</u>						
Natural Resources, Wildlife Resources	37384	R657-3	5YR	03/05/2013	2013-7/67	
	37980	R657-52	AMD	11/07/2013	2013-19/93	
	37667	R657-53	5YR	05/30/2013	2013-12/57	
<u>importation requirements</u>						
Agriculture and Food, Animal Industry	37811	R58-1	AMD	08/21/2013	2013-14/9	
<u>improvement</u>						
Education, Administration	37709	R277-406	5YR	06/10/2013	2013-13/230	
	37734	R277-406	AMD	08/07/2013	2013-13/26	
<u>in-service training</u>						
Public Safety, Peace Officer Standards and Training	37805	R728-501	5YR	06/28/2013	2013-14/118	
<u>incidents</u>						
Pardons (Board Of), Administration	37342	R671-509	5YR	02/15/2013	2013-5/212	
	37456	R671-509	AMD	05/22/2013	2013-8/25	
<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	
	37301	R414-303	AMD	04/17/2013	2013-5/179	
	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	
	37301	R414-303	AMD	04/17/2013	2013-5/179	
<u>individual home booster pumps</u>						
Environmental Quality, Drinking Water	37731	R309-540	NSC	07/09/2013	Not Printed	
<u>indoor air pollution</u>						
Health, Disease Control and Prevention, Environmental Services	38080	R392-510	NSC	11/11/2013	Not Printed	
	37454	R392-510-6	AMD	07/01/2013	2013-8/8	
<u>industrial waste</u>						
Environmental Quality, Water Quality	37851	R317-1	AMD	09/24/2013	2013-15/41	
	37366	R317-1-1	AMD	08/19/2013	2013-6/32	
	37366	R317-1-1	CPR	08/19/2013	2013-14/92	
	37240	R317-13	5YR	01/31/2013	2013-4/51	
	38065	R317-13	NSC	11/04/2013	Not Printed	
<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	

RULES INDEX

<u>infrastructure assistance</u>						
Transportation Commission, Administration	38195	R940-3	5YR	12/18/2013	Not Printed	
<u>inspections</u>						
Agriculture and Food, Animal Industry	37246	R58-18	AMD	03/25/2013	2013-4/12	
	37850	R58-18	AMD	09/10/2013	2013-15/15	
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	
	37597	R313-12-3	NSC	06/07/2013	Not Printed	
	37179	R313-16	NSC	01/31/2013	Not Printed	
	37193	R313-18	AMD	03/19/2013	2013-3/42	
Public Safety, Driver License	37614	R708-21	EMR	05/14/2013	2013-11/89	
	37717	R708-21	AMD	08/08/2013	2013-13/198	
<u>Inspector General</u>						
Governor, Planning and Budget, Inspector General of Medicaid Services (Office of)	37536	R367-1	R&R	06/21/2013	2013-10/135	
<u>instructional materials</u>						
Education, Administration	37494	R277-469	5YR	04/08/2013	2013-9/31	
	37509	R277-469	AMD	06/07/2013	2013-9/3	
<u>instructor certification</u>						
Commerce, Real Estate	37750	R162-2g	AMD	08/21/2013	2013-14/28	
<u>insurance</u>						
Human Resource Management, Administration	37565	R477-6	AMD	07/01/2013	2013-10/160	
Insurance, Administration	38034	R590-160	5YR	09/30/2013	2013-20/51	
	37719	R590-160-5	AMD	08/28/2013	2013-13/193	
	38025	R590-161	5YR	09/27/2013	2013-20/51	
	38026	R590-162	5YR	09/27/2013	2013-20/52	
	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	
	37840	R590-186	5YR	07/12/2013	2013-15/127	
	37176	R590-218	5YR	01/09/2013	2013-3/113	
	37600	R590-219	5YR	05/07/2013	2013-11/101	
	37598	R590-222	5YR	05/07/2013	2013-11/102	
	37838	R590-222-3	AMD	09/23/2013	2013-15/110	
	38050	R590-222-3	NSC	10/30/2013	Not Printed	
	38038	R590-245	5YR	10/01/2013	2013-20/52	
	37907	R590-250	5YR	08/09/2013	2013-17/56	
Labor Commission, Industrial Accidents	37133	R612-5	REP	02/25/2013	2013-2/46	
	37127	R612-400	NEW	02/25/2013	2013-2/76	
	38072	R612-400-5	AMD	12/23/2013	2013-22/146	
<u>insurance continuing education</u>						
Insurance, Administration	37882	R590-142	AMD	09/23/2013	2013-16/17	
<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	
	37379	R590-102-17	AMD	05/14/2013	2013-6/47	
	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	
Insurance, Title and Escrow Commission	38123	R592-14-2	NSC	12/12/2013	Not Printed	
<u>insurance licensing requirements</u>						
Insurance, Administration	37883	R590-244	AMD	09/23/2013	2013-16/31	
<u>insurance mandatory fraud reporting</u>						
Insurance, Administration	38199	R590-248	5YR	12/23/2013	Not Printed	

<u>insurance reserves and nonforfeitures</u> Insurance, Administration	37599	R590-223	5YR	05/07/2013	2013-11/103
<u>insurance unfair marketing practices</u> Insurance, Administration	37421	R590-154	5YR	03/20/2013	2013-8/63
<u>interest buy-downs</u> Environmental Quality, Drinking Water	37748	R309-700	NSC	07/09/2013	Not Printed
<u>international guest teachers</u> Education, Administration	38189	R277-527	5YR	12/16/2013	Not Printed
<u>internet facilitators</u> Commerce, Occupational and Professional Licensing	37942	R156-83	AMD	10/22/2013	2013-18/21
<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 highway system</u> Transportation, Administration	37951 37952	R907-64 R907-65	5YR 5YR	09/03/2013 09/03/2013	2013-18/64 2013-18/64
<u>interstate system</u> Transportation, Administration	37094	R907-64	R&R	02/07/2013	2013-1/23
<u>iron and manganese control</u> Environmental Quality, Drinking Water	37730	R309-535	AMD	08/28/2013	2013-13/117
<u>irradiator</u> Environmental Quality, Radiation Control	37185	R313-34	NSC	01/31/2013	Not Printed
<u>job creation</u> Governor, Economic Development	37206 37204	R357-2 R357-2	EXT REP	01/16/2013 05/01/2013	2013-4/63 2013-3/96
<u>jobs</u> Governor, Economic Development	37666	R357-3	5YR	05/30/2013	2013-12/52
<u>judges</u> Judicial Performance Evaluation Commission, Administration	37383 37382	R597-1 R597-3	AMD AMD	05/14/2013 05/14/2013	2013-7/37 2013-7/38
<u>Judicial Conduct Commission</u> Judicial Conduct Commission, Administration	37843	R595-3	AMD	09/18/2013	2013-15/112
<u>judicial performance evaluations</u> Judicial Performance Evaluation Commission, Administration	37383 37382	R597-1 R597-3	AMD AMD	05/14/2013 05/14/2013	2013-7/37 2013-7/38
<u>judiciary</u> Judicial Performance Evaluation Commission, Administration	37383	R597-1	AMD	05/14/2013	2013-7/37
<u>juvenile corrections</u> Human Services, Juvenile Justice Services	37986	R547-1	REP	11/27/2013	2013-19/70
<u>juvenile courts</u> Education, Administration	37405 37244	R277-709 R277-709-3	5YR NSC	03/12/2013 02/15/2013	2013-7/64 Not Printed

RULES INDEX

kidnap offender registry

Public Safety, Criminal Investigations and Technical Services, Criminal Identification 37232 R722-360 NEW 03/25/2013 2013-4/46

kinship

Human Services, Child and Family Services 37505 R512-500 5YR 04/08/2013 2013-9/37

labor

Labor Commission, Boiler and Elevator Safety 37493 R616-1 5YR 04/05/2013 2013-9/38
37520 R616-1 NSC 04/29/2013 Not Printed

Labor Commission

Labor Commission, Administration 37492 R600-1 5YR 04/05/2013 2013-9/38
37621 R600-2 AMD 07/08/2013 2013-11/33
37866 R600-2 AMD 09/23/2013 2013-16/36

laboratories

Health, Disease Control and Prevention, Laboratory Services 37842 R438-13 5YR 07/12/2013 2013-15/126

laboratory animals

Health, Disease Control and Prevention, Laboratory Services 37842 R438-13 5YR 07/12/2013 2013-15/126

land sales

Natural Resources, Wildlife Resources 38148 R657-61 5YR 11/18/2013 2013-24/47

land use

Natural Resources, Forestry, Fire and State Lands 37752 R652-110 5YR 06/19/2013 2013-14/118
School and Institutional Trust Lands, Administration 38181 R850-110 5YR 12/16/2013 Not Printed

landfills

Environmental Quality, Air Quality 37258 R307-220 5YR 02/06/2013 2013-5/193

landscape architects

Commerce, Occupational and Professional Licensing 37274 R156-53 5YR 02/07/2013 2013-5/190

language proficiency

Regents (Board Of), Administration 37551 R765-136 5YR 04/29/2013 2013-10/216

large appliance

Environmental Quality, Air Quality 36729 R307-347 NEW 02/01/2013 2012-19/71
36729 R307-347 CPR 02/01/2013 2013-1/59

law enforcement

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

law enforcement officers

Public Safety, Peace Officer Standards and Training 37805 R728-501 5YR 06/28/2013 2013-14/118

leadership skills

Education, Administration 37746 R277-619 NEW 08/07/2013 2013-13/58

LEAP

Regents (Board Of), Administration 37540 R765-606 5YR 04/24/2013 2013-10/218

leases

Natural Resources, Forestry, Fire and State Lands 37752 R652-110 5YR 06/19/2013 2013-14/118
School and Institutional Trust Lands, Administration 38181 R850-110 5YR 12/16/2013 Not Printed

leave benefits

Human Resource Management, Administration 37566 R477-7 AMD 07/01/2013 2013-10/163

liberties

Natural Resources, Administration 37219 R634-1 5YR 01/23/2013 2013-4/59

<u>license</u>					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	37605	R722-310	AMD	07/08/2013	2013-11/55
	37604	R722-330	AMD	07/08/2013	2013-11/58
<u>licensed family child care</u>					
Health, Family Health and Preparedness, Child Care Licensing	37663	R430-90	5YR	05/29/2013	2013-12/54
	37779	R430-90-7	AMD	09/01/2013	2013-14/77
<u>licenses</u>					
Environmental Quality, Radiation Control	37194	R313-19	AMD	03/19/2013	2013-3/45
Natural Resources, Wildlife Resources	37595	R657-45	5YR	05/06/2013	2013-11/105
<u>licensing</u>					
Commerce, Occupational and Professional Licensing	37395	R156-1	NSC	04/01/2013	Not Printed
	37754	R156-1	AMD	08/22/2013	2013-14/21
	38020	R156-1	AMD	11/21/2013	2013-20/17
	37199	R156-1-102	AMD	03/11/2013	2013-3/2
	37073	R156-3a-102	AMD	01/24/2013	2012-24/6
	37997	R156-5a	5YR	09/16/2013	2013-19/147
	37707	R156-17b	AMD	08/08/2013	2013-13/7
	38075	R156-17b	AMD	12/23/2013	2013-22/17
	37526	R156-24b-503	AMD	06/10/2013	2013-9/2
	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
	37959	R156-37c	5YR	09/03/2013	2013-18/61
	37039	R156-37f	NEW	01/08/2013	2012-23/21
	38031	R156-37f-102	AMD	11/21/2013	2013-20/20
	37071	R156-44a	AMD	01/22/2013	2012-24/11
	37273	R156-49	5YR	02/07/2013	2013-5/189
	38074	R156-49	AMD	12/23/2013	2013-22/41
	37274	R156-53	5YR	02/07/2013	2013-5/190
	37364	R156-55a	AMD	04/22/2013	2013-6/17
	37943	R156-55d	AMD	10/29/2013	2013-18/14
	37753	R156-56-403	AMD	08/22/2013	2013-14/27
	37948	R156-60	AMD	10/22/2013	2013-18/16
	38068	R156-60b	AMD	12/23/2013	2013-22/42
	38017	R156-60d	AMD	11/21/2013	2013-20/23
	37965	R156-61	AMD	11/07/2013	2013-19/7
	37974	R156-63a	5YR	09/09/2013	2013-19/147
	37944	R156-63a-102	AMD	10/29/2013	2013-18/18
	37975	R156-63b	5YR	09/09/2013	2013-19/148
	37945	R156-63b-102	AMD	10/29/2013	2013-18/19
	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
	37706	R156-69-302b	AMD	08/08/2013	2013-13/24
	37705	R156-70a-304	AMD	08/08/2013	2013-13/25
	37958	R156-74	5YR	09/03/2013	2013-18/61
	37533	R156-75	AMD	06/24/2013	2013-10/15
	37202	R156-82	NEW	03/11/2013	2013-3/5
	37396	R156-82	NSC	04/01/2013	Not Printed
	37942	R156-83	AMD	10/22/2013	2013-18/21
Commerce, Real Estate	37678	R162-2c	AMD	08/07/2013	2013-12/9
	37949	R162-2c-204	AMD	11/20/2013	2013-18/22
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
Governor, Economic Development, Pete Suazo Utah Athletic Commission	37672	R359-1	AMD	09/13/2013	2013-12/21
Human Services, Administration, Administrative Services, Licensing	37900	R501-7	AMD	11/27/2013	2013-17/35
Human Services, Juvenile Justice Services	37986	R547-1	REP	11/27/2013	2013-19/70
Public Safety, Driver License	37933	R708-10	R&R	10/22/2013	2013-18/36

RULES INDEX

<u>licensing and certification</u>					
Commerce, Real Estate	36973	R162-2g	AMD	01/02/2013	2012-22/19
	37865	R162-2g	AMD	10/09/2013	2013-16/4
	37950	R162-2g-307d	AMD	10/23/2013	2013-18/25
<u>licensure</u>					
Professional Practices Advisory Commission, Administration	38010	R686-102	NEW	11/07/2013	2013-19/124
<u>life insurance</u>					
Insurance, Administration	37515	R590-93	AMD	06/11/2013	2013-9/12
<u>life insurance filings</u>					
Insurance, Administration	37861	R590-226	AMD	10/16/2013	2013-16/23
<u>life sciences</u>					
Governor, Economic Development	37208	R357-6	AMD	05/01/2013	2013-4/15
<u>life settlement</u>					
Insurance, Administration	37598	R590-222	5YR	05/07/2013	2013-11/102
	37838	R590-222-3	AMD	09/23/2013	2013-15/110
	38050	R590-222-3	NSC	10/30/2013	Not Printed
<u>Life with Dignity Order</u>					
Health, Family Health and Preparedness, Licensing	37442	R432-31	AMD	06/07/2013	2013-8/12
<u>limited access highways</u>					
Transportation, Preconstruction, Right-of-Way Acquisition	38054	R933-3	REP	12/09/2013	2013-21/63
<u>literacy</u>					
Education, Administration	38110	R277-704	5YR	11/08/2013	2013-23/63
<u>litter</u>					
Transportation, Operations, Maintenance	37874	R918-4	5YR	08/01/2013	2013-16/70
<u>loan origination</u>					
Commerce, Real Estate	37678	R162-2c	AMD	08/07/2013	2013-12/9
	37949	R162-2c-204	AMD	11/20/2013	2013-18/22
<u>loans</u>					
Administrative Services, Facilities Construction and Management	37845	R23-30	5YR	07/15/2013	2013-15/123
	37848	R23-30	AMD	09/10/2013	2013-15/8
Agriculture and Food, Conservation and Resource Management	37701	R64-1	NSC	09/30/2013	Not Printed
Environmental Quality, Drinking Water	37748	R309-700	NSC	07/09/2013	Not Printed
	37749	R309-705	NSC	07/09/2013	Not Printed
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
	37951	R907-64	5YR	09/03/2013	2013-18/64
<u>low quality ground water</u>					
Environmental Quality, Drinking Water	37723	R309-505	NSC	07/09/2013	Not Printed

<u>MACT</u>						
Environmental Quality, Air Quality	37703	R307-214	AMD	09/12/2013	2013-13/60	
<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	
	37867	R313-28-80	AMD	10/15/2013	2013-16/6	
<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>marriage and family therapists</u>						
Commerce, Occupational and Professional Licensing	38068	R156-60b	AMD	12/23/2013	2013-22/42	
<u>math teaching training</u>						
Education, Administration	37279	R277-498	NEW	04/08/2013	2013-5/14	
	37507	R277-498-4	NSC	04/29/2013	Not Printed	
<u>Medicaid</u>						
Health, Health Care Financing	37045	R410-14	AMD	01/09/2013	2012-23/44	
	37906	R410-14	AMD	10/08/2013	2013-17/32	
Health, Health Care Financing, Coverage and Reimbursement Policy	37122	R414-1-5	AMD	03/01/2013	2013-2/18	
	37422	R414-1-5	AMD	05/29/2013	2013-8/10	
	37715	R414-1-5	AMD	08/07/2013	2013-13/123	
	37905	R414-1-5	EMR	08/08/2013	2013-17/41	
	37976	R414-1-5	AMD	11/07/2013	2013-19/64	
	37546	R414-1-30	AMD	07/01/2013	2013-10/142	
	37898	R414-2A-6	AMD	10/11/2013	2013-17/34	
	37391	R414-6	5YR	03/08/2013	2013-7/65	
	38160	R414-9	5YR	12/02/2013	2013-24/45	
	37578	R414-11	AMD	07/01/2013	2013-10/143	
	37656	R414-14A-26	AMD	07/22/2013	2013-12/23	
	37177	R414-27	5YR	01/09/2013	2013-3/109	
	37085	R414-29	AMD	05/16/2013	2012-24/28	
	37085	R414-29	CPR	05/16/2013	2013-7/49	
	38014	R414-42	5YR	09/17/2013	2013-20/50	
	37559	R414-51	5YR	04/30/2013	2013-10/213	
	37696	R414-51	AMD	08/14/2013	2013-13/128	
	37580	R414-52	5YR	05/01/2013	2013-10/214	
	37591	R414-53	5YR	05/03/2013	2013-11/101	
	37807	R414-55	5YR	06/28/2013	2013-14/106	
	37528	R414-70	AMD	07/01/2013	2013-10/144	
	38162	R414-99	5YR	12/02/2013	2013-24/46	
	37221	R414-301	5YR	01/23/2013	2013-4/52	
	37880	R414-301	AMD	10/01/2013	2013-16/11	
	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	
	37881	R414-308-4	AMD	10/01/2013	2013-16/15	
	37576	R414-401-3	AMD	07/01/2013	2013-10/146	
	37577	R414-506	AMD	07/01/2013	2013-10/147	
	37665	R414-508	5YR	05/30/2013	2013-12/53	
	37548	R414-509	EMR	05/01/2013	2013-10/209	
	37549	R414-509	AMD	06/28/2013	2013-10/148	

RULES INDEX

Medicaid abuse

Governor, Planning and Budget, Inspector General of Medicaid Services (Office of) 37536 R367-1 R&R 06/21/2013 2013-10/135

Medicaid fraud

Governor, Planning and Budget, Inspector General of Medicaid Services (Office of) 37536 R367-1 R&R 06/21/2013 2013-10/135

Medicaid waste

Governor, Planning and Budget, Inspector General of Medicaid Services (Office of) 37536 R367-1 R&R 06/21/2013 2013-10/135

medical incinerators

Environmental Quality, Air Quality 37256 R307-222 5YR 02/06/2013 2013-5/194

medical practitioners

Labor Commission, Industrial Accidents 37130 R612-2 REP 02/25/2013 2013-2/35
 37126 R612-300 NEW 02/25/2013 2013-2/66
 38036 R612-300 R&R 11/22/2013 2013-20/26

medical supplies

Health, Health Care Financing, Coverage and Reimbursement Policy 37528 R414-70 AMD 07/01/2013 2013-10/144

medical transportation

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

medically underserved

Health, Family Health and Preparedness, Primary Care and Rural Health 38192 R434-40 EXD 12/16/2013 Not Printed

medication treatment

Human Services, Substance Abuse and Mental Health, State Hospital 37224 R525-3 5YR 01/24/2013 2013-4/56
 37968 R525-3 NSC 09/30/2013 Not Printed

membrane filtration

Environmental Quality, Drinking Water 37729 R309-530 AMD 08/28/2013 2013-13/114

mental health

Commerce, Occupational and Professional Licensing 37948 R156-60 AMD 10/22/2013 2013-18/16
 Human Services, Substance Abuse and Mental Health, State Hospital 37973 R525-8 NSC 09/30/2013 Not Printed

mercury

Environmental Quality, Air Quality 37254 R307-224 5YR 02/06/2013 2013-5/195

metal containers

Environmental Quality, Air Quality 36734 R307-352 NEW 02/01/2013 2012-19/84
 36734 R307-352 CPR 02/01/2013 2013-1/73

metal furniture

Environmental Quality, Air Quality 36728 R307-346 NEW 02/01/2013 2012-19/69
 36728 R307-346 CPR 02/01/2013 2013-1/57

meth lab contractor certification

Environmental Quality, Environmental Response and Remediation 37513 R311-500 NSC 04/29/2013 Not Printed

midwifery

Commerce, Occupational and Professional Licensing 37071 R156-44a AMD 01/22/2013 2012-24/11

migratory birds

Natural Resources, Wildlife Resources 37982 R657-9 AMD 11/07/2013 2013-19/88

<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	2013-9/41	
	37477	R647-7	5YR	04/02/2013	2013-9/42	
	37478	R647-8	5YR	04/02/2013	2013-9/42	
<u>minimum sizing</u>						
Environmental Quality, Drinking Water	37724	R309-510	AMD	08/28/2013	2013-13/77	
<u>mining</u>						
Labor Commission, Boiler and Elevator Safety	37493	R616-1	5YR	04/05/2013	2013-9/38	
	37520	R616-1	NSC	04/29/2013	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	
	37830	R307-350	AMD	12/03/2013	2013-15/24	
	37830	R307-350	CPR	12/03/2013	2013-21/68	
<u>miscellaneous treatment</u>						
Environmental Quality, Drinking Water	37730	R309-535	AMD	08/28/2013	2013-13/117	
<u>monitoring</u>						
Education, Administration	37886	R277-481	5YR	08/02/2013	2013-17/46	
	37924	R277-481	AMD	10/08/2013	2013-17/10	
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>motor vehicle safety</u>						
Public Safety, Driver License	37614	R708-21	EMR	05/14/2013	2013-11/89	
	37717	R708-21	AMD	08/08/2013	2013-13/198	
<u>motor vehicles</u>						
Environmental Quality, Administration	37847	R305-4	5YR	07/15/2013	2013-15/126	
	38048	R305-4-5	AMD	12/19/2013	2013-21/7	
Environmental Quality, Air Quality	37990	R307-121	AMD	01/01/2014	2013-19/42	
	37901	R307-123	5YR	08/08/2013	2013-17/50	
	37989	R307-123	AMD	12/05/2013	2013-19/45	
Tax Commission, Motor Vehicle Enforcement	37699	R877-23V-21	AMD	08/22/2013	2013-13/205	
<u>motorcycle rider training schools</u>						
Public Safety, Driver License	37613	R708-30	5YR	05/13/2013	2013-11/105	
<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>nail technicians</u>						
Commerce, Occupational and Professional Licensing	37697	R156-11a	AMD	08/08/2013	2013-13/3	
<u>Native American Grave Protection and Repatriation</u>						
School and Institutional Trust Lands, Administration	38138	R850-61	5YR	11/13/2013	2013-23/68	
<u>NESHAP</u>						
Environmental Quality, Air Quality	37703	R307-214	AMD	09/12/2013	2013-13/60	

RULES INDEX

<u>new hire registry</u>						
Workforce Services, Unemployment Insurance	37650	R994-315	5YR	05/16/2013	2013-12/59	
<u>new state revenue</u>						
Governor, Economic Development	37208	R357-6	AMD	05/01/2013	2013-4/15	
<u>newborn hearing screening</u>						
Health, Family Health and Preparedness, Children with Special Health Care Needs	37810	R398-2	5YR	07/01/2013	2013-14/105	
<u>newborn screening</u>						
Health, Family Health and Preparedness, Children with Special Health Care Needs	37381	R398-1	AMD	07/01/2013	2013-7/28	
<u>non-licensed public education employee</u>						
Education, Administration	37280	R277-532	NEW	04/08/2013	2013-5/16	
<u>nonattainment</u>						
Environmental Quality, Air Quality	37263	R307-403-1	AMD	07/01/2013	2013-5/37	
	37263	R307-403-1	CPR	07/01/2013	2013-11/73	
	37987	R307-403-1	AMD	12/05/2013	2013-19/47	
	37264	R307-403-2	AMD	07/01/2013	2013-5/39	
	37264	R307-403-2	CPR	07/01/2013	2013-11/74	
	37266	R307-403-10	AMD	07/01/2013	2013-5/42	
	37266	R307-403-10	CPR	07/01/2013	2013-11/77	
	37267	R307-403-11	AMD	07/01/2013	2013-5/43	
	37267	R307-403-11	CPR	07/01/2013	2013-11/77	
<u>nonprofit</u>						
Heritage and Arts, Arts and Museums, Museum Services	37846	R452-200	EMR	07/15/2013	2013-15/121	
<u>nonpublic schools</u>						
Education, Administration	37920	R277-410-3	AMD	10/08/2013	2013-17/4	
<u>notification requirements</u>						
Commerce, Real Estate	37393	R162-2f	AMD	05/08/2013	2013-7/8	
	37530	R162-2f	AMD	06/21/2013	2013-10/17	
	37394	R162-2f-403	AMD	05/08/2013	2013-7/16	
	37664	R162-2f-403a	NSC	06/24/2013	Not Printed	
<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>nursing facility</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	37576	R414-401-3	AMD	07/01/2013	2013-10/146	
<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>occupational licensing</u>						
Commerce, Occupational and Professional Licensing	38021	R156-46b-202	AMD	11/21/2013	2013-20/21	
	38153	R156-46b-202	NSC	12/12/2013	Not Printed	
	37364	R156-55a	AMD	04/22/2013	2013-6/17	
	37533	R156-75	AMD	06/24/2013	2013-10/15	
Environmental Quality, Water Quality	37812	R317-11	AMD	09/01/2013	2013-14/54	
<u>off-highway vehicles</u>						
Natural Resources, Parks and Recreation	37519	R651-407	5YR	04/12/2013	2013-9/43	

	36856	R651-408	REP	01/15/2013	2012-20/77
	37762	R651-601	5YR	06/25/2013	2013-14/107
	37794	R651-615	5YR	06/27/2013	2013-14/113
<u>office grants</u>					
Heritage and Arts, Arts and Museums, Museum Services	37846	R452-200	EMR	07/15/2013	2013-15/121
<u>offset</u>					
Environmental Quality, Air Quality	37263	R307-403-1	AMD	07/01/2013	2013-5/37
	37263	R307-403-1	CPR	07/01/2013	2013-11/73
	37987	R307-403-1	AMD	12/05/2013	2013-19/47
	37264	R307-403-2	AMD	07/01/2013	2013-5/39
	37264	R307-403-2	CPR	07/01/2013	2013-11/74
	37266	R307-403-10	AMD	07/01/2013	2013-5/42
	37266	R307-403-10	CPR	07/01/2013	2013-11/77
	37267	R307-403-11	AMD	07/01/2013	2013-5/43
	37267	R307-403-11	CPR	07/01/2013	2013-11/77
	37265	R307-420	AMD	07/01/2013	2013-5/43
	37265	R307-420	CPR	07/01/2013	2013-11/78
<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	2013-9/43
	37545	R649-9	R&R	07/01/2013	2013-10/183
	37826	R649-9-8	NSC	07/26/2013	Not Printed
	37825	R649-9-10	NSC	07/26/2013	Not Printed
<u>OMS</u>					
Heritage and Arts, Arts and Museums, Museum Services	37846	R452-200	EMR	07/15/2013	2013-15/121
<u>online prescribing</u>					
Commerce, Occupational and Professional Licensing	37942	R156-83	AMD	10/22/2013	2013-18/21
<u>online testing</u>					
Education, Administration	38000	R277-402	REP	11/07/2013	2013-19/17
<u>onsite professional</u>					
Environmental Quality, Water Quality	37812	R317-11	AMD	09/01/2013	2013-14/54
<u>onsite wastewater systems</u>					
Environmental Quality, Water Quality	37575	R317-4	R&R	09/01/2013	2013-10/27
<u>open government</u>					
Education, Administration	37355	R277-101	AMD	04/22/2013	2013-6/26
<u>operation and maintenance</u>					
Environmental Quality, Drinking Water	37727	R309-520	AMD	08/28/2013	2013-13/93
<u>operation and maintenance requirements</u>					
Environmental Quality, Drinking Water	37722	R309-500	AMD	08/28/2013	2013-13/73
<u>operational requirements</u>					
Commerce, Real Estate	37393	R162-2f	AMD	05/08/2013	2013-7/8
	37530	R162-2f	AMD	06/21/2013	2013-10/17
	37394	R162-2f-403	AMD	05/08/2013	2013-7/16
	37664	R162-2f-403a	NSC	06/24/2013	Not Printed
<u>optometry</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	37580	R414-52	5YR	05/01/2013	2013-10/214
<u>organ transplants</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	38161	R414-58	5YR	12/02/2013	2013-24/46

RULES INDEX

<u>orthodontia</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	37559	R414-51	5YR	04/30/2013	2013-10/213
	37696	R414-51	AMD	08/14/2013	2013-13/128
<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
<u>osteopaths</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
<u>out of school time child care programs</u>					
Health, Family Health and Preparedness, Child Care Licensing	37778	R430-70-7	AMD	09/01/2013	2013-14/76
<u>out-of-home care</u>					
Human Services, Child and Family Services	37642	R512-305	5YR	05/16/2013	2013-12/56
<u>outdoor wood boilers</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>overflow and drains</u>					
Environmental Quality, Drinking Water	37732	R309-545	NSC	07/09/2013	Not Printed
<u>overpayments</u>					
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
	37516	R994-406-403	AMD	06/12/2013	2013-9/26
<u>oversight</u>					
Education, Administration	37886	R277-481	5YR	08/02/2013	2013-17/46
	37924	R277-481	AMD	10/08/2013	2013-17/10
<u>overtime</u>					
Human Resource Management, Administration	37567	R477-8	AMD	07/01/2013	2013-10/167
<u>ozone</u>					
Environmental Quality, Air Quality	37903	R307-110-10	AMD	11/07/2013	2013-17/29
	37988	R307-110-10	AMD	12/05/2013	2013-19/41
	37904	R307-110-36	AMD	11/07/2013	2013-17/30
	36725	R307-340	REP	02/01/2013	2012-19/49
	36725	R307-340	CPR	02/01/2013	2013-1/48
	37265	R307-420	AMD	07/01/2013	2013-5/43
	37265	R307-420	CPR	07/01/2013	2013-11/78
<u>paper 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>paraeducators</u>					
Education, Administration	37889	R277-526	5YR	08/02/2013	2013-17/48
<u>pardons</u>					
Pardons (Board Of), Administration	37455	R671-315	AMD	05/22/2013	2013-8/23
<u>parent notification</u>					
Education, Administration	37929	R277-620	NEW	10/08/2013	2013-17/26

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	37762	R651-601	5YR	06/25/2013	2013-14/107
	37764	R651-602	5YR	06/25/2013	2013-14/108
	37765	R651-603	5YR	06/25/2013	2013-14/108
	37766	R651-604	5YR	06/25/2013	2013-14/109
	37767	R651-605	5YR	06/25/2013	2013-14/109
	37771	R651-606	5YR	06/27/2013	2013-14/110
	37772	R651-607	5YR	06/27/2013	2013-14/110
	37776	R651-608	5YR	06/27/2013	2013-14/111
	37790	R651-609	5YR	06/27/2013	2013-14/111
	37791	R651-610	5YR	06/27/2013	2013-14/112
	37625	R651-611	AMD	07/08/2013	2013-11/40
	37792	R651-613	5YR	06/27/2013	2013-14/112
	37793	R651-614	5YR	06/27/2013	2013-14/113
	37585	R651-614	AMD	07/08/2013	2013-11/45
	37794	R651-615	5YR	06/27/2013	2013-14/113
	37798	R651-616	5YR	06/27/2013	2013-14/114
	37800	R651-617	5YR	06/27/2013	2013-14/114
	37801	R651-618	5YR	06/27/2013	2013-14/115
	37802	R651-619	5YR	06/27/2013	2013-14/115
	37803	R651-620	5YR	06/27/2013	2013-14/116
	37804	R651-621	5YR	06/27/2013	2013-14/116
	37813	R651-622	5YR	07/02/2013	2013-15/128
	37814	R651-623	5YR	07/05/2013	2013-15/129
	37815	R651-624	5YR	07/05/2013	2013-15/129
	37816	R651-625	5YR	07/05/2013	2013-15/130
	37817	R651-626	5YR	07/05/2013	2013-15/130
	37818	R651-627	5YR	07/05/2013	2013-15/131
	37819	R651-628	5YR	07/05/2013	2013-15/131
	37820	R651-629	5YR	07/05/2013	2013-15/132
	37761	R651-630	5YR	06/25/2013	2013-14/117
	37821	R651-631	5YR	07/05/2013	2013-15/132
	37822	R651-632	5YR	07/05/2013	2013-15/133
	37205	R651-633	AMD	03/14/2013	2013-3/100
	37823	R651-633	5YR	07/05/2013	2013-15/133
	38085	R651-634	AMD	12/26/2013	2013-22/147

parole

Pardons (Board Of), Administration	37342	R671-509	5YR	02/15/2013	2013-5/212
	37456	R671-509	AMD	05/22/2013	2013-8/25
	37343	R671-510	5YR	02/15/2013	2013-5/212
	37457	R671-510	AMD	05/22/2013	2013-8/26
	37344	R671-512	5YR	02/15/2013	2013-5/213
	37458	R671-512	AMD	05/22/2013	2013-8/27
	37346	R671-513	5YR	02/15/2013	2013-5/214
	37459	R671-513	AMD	05/22/2013	2013-8/28
	37347	R671-514	5YR	02/15/2013	2013-5/214
	37460	R671-514	AMD	05/22/2013	2013-8/29
	37348	R671-515	5YR	02/15/2013	2013-5/215
	37461	R671-515	AMD	05/22/2013	2013-8/31
	37349	R671-516	5YR	02/15/2013	2013-5/215
	37462	R671-516	AMD	05/22/2013	2013-8/32
	37350	R671-517	5YR	02/15/2013	2013-5/216
	37463	R671-517	AMD	05/22/2013	2013-8/33
	37351	R671-518	5YR	02/15/2013	2013-5/216
	37352	R671-519	5YR	02/15/2013	2013-5/217
	37464	R671-519	AMD	05/22/2013	2013-8/35
	37353	R671-520	5YR	02/15/2013	2013-5/217

RULES INDEX

	37465	R671-520	AMD	05/22/2013	2013-8/36
	37354	R671-522	5YR	02/15/2013	2013-5/218
<u>parolees</u>					
Corrections, Administration	38032	R251-103	5YR	09/30/2013	2013-20/49
<u>particulates</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>patient rights</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	37211	R525-2	5YR	01/23/2013	2013-4/56
	37967	R525-2	NSC	09/30/2013	Not Printed
<u>pawnshops</u>					
Commerce, Consumer Protection	37897	R152-32a	5YR	08/05/2013	2013-17/45
<u>pedestrians</u>					
Regents (Board Of), University of Utah, Administration	37770	R805-1	AMD	08/21/2013	2013-14/85
<u>penalties</u>					
Environmental Quality, Drinking Water	37796	R309-400	AMD	10/12/2013	2013-14/45
	37797	R309-405	AMD	10/12/2013	2013-14/51
Environmental Quality, Environmental Response and Remediation	37488	R311-208	NSC	04/29/2013	Not Printed
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
<u>people with disabilities</u>					
Human Services, Services for People with Disabilities	37111	R539-2	AMD	02/13/2013	2013-1/8
	37163	R539-3	CPR	05/10/2013	2013-7/51
<u>per diem allowances</u>					
Administrative Services, Finance	37521	R25-5	5YR	04/15/2013	2013-9/29
	37558	R25-5	AMD	06/21/2013	2013-10/6
	37523	R25-7	5YR	04/15/2013	2013-9/30
	37556	R25-7	AMD	06/21/2013	2013-10/7
	38174	R25-7	EMR	01/01/2014	Not Printed
<u>performance evaluations</u>					
Judicial Performance Evaluation Commission, Administration	37383	R597-1	AMD	05/14/2013	2013-7/37
<u>permits</u>					
Environmental Quality, Air Quality	37831	R307-401-7	AMD	10/03/2013	2013-15/27
	37037	R307-401-15	AMD	02/07/2013	2012-23/40
	37236	R307-401-15	NSC	02/15/2013	Not Printed
	37268	R307-401-19	AMD	07/01/2013	2013-5/36
	37268	R307-401-19	CPR	07/01/2013	2013-11/72
	37269	R307-401-20	AMD	07/01/2013	2013-5/36
	37269	R307-401-20	CPR	07/01/2013	2013-11/72
Environmental Quality, Drinking Water	37722	R309-500	AMD	08/28/2013	2013-13/73
Health, Center for Health Data, Vital Records and Statistics	37427	R436-8	5YR	03/21/2013	2013-8/58
Natural Resources, Forestry, Fire and State Lands	37623	R652-70-2300	AMD	07/08/2013	2013-11/46
	37752	R652-110	5YR	06/19/2013	2013-14/118
Natural Resources, Wildlife Resources	37594	R657-42	5YR	05/06/2013	2013-11/104
	37595	R657-45	5YR	05/06/2013	2013-11/105
	37894	R657-57	5YR	08/05/2013	2013-17/58
School and Institutional Trust Lands, Administration	38181	R850-110	5YR	12/16/2013	Not Printed
Transportation, Preconstruction	38052	R930-6	R&R	12/09/2013	2013-21/38

<u>persistently dangerous schools</u>					
Education, Administration	37495	R277-483	5YR	04/08/2013	2013-9/31
<u>personal property</u>					
Tax Commission, Property Tax	38057	R884-24P-29	AMD	01/01/2014	2013-21/23
	37936	R884-24P-33	AMD	10/24/2013	2013-18/41
	38058	R884-24P-53	AMD	01/01/2014	2013-21/24
	37109	R884-24P-67	AMD	02/21/2013	2013-1/22
<u>personnel management</u>					
Human Resource Management, Administration	37561	R477-1-1	AMD	07/01/2013	2013-10/150
	37564	R477-5	AMD	07/01/2013	2013-10/159
	37565	R477-6	AMD	07/01/2013	2013-10/160
	37568	R477-9	AMD	07/01/2013	2013-10/170
	37572	R477-13	AMD	07/01/2013	2013-10/177
	37573	R477-14	AMD	07/01/2013	2013-10/178
<u>petroleum</u>					
Environmental Quality, Environmental Response and Remediation	37481	R311-200	NSC	04/29/2013	Not Printed
	37483	R311-203	NSC	04/29/2013	Not Printed
	37484	R311-204	NSC	04/29/2013	Not Printed
	37485	R311-205	NSC	04/29/2013	Not Printed
	37486	R311-206	NSC	04/29/2013	Not Printed
	37579	R311-207	NSC	05/17/2013	Not Printed
	37488	R311-208	NSC	04/29/2013	Not Printed
	37489	R311-209	NSC	04/29/2013	Not Printed
	37490	R311-211	NSC	04/29/2013	Not Printed
	37491	R311-212	NSC	04/29/2013	Not Printed
<u>petroleum hydrocarbons</u>					
Environmental Quality, Water Quality	37854	R317-6	AMD	09/24/2013	2013-15/85
	37961	R317-6-6	AMD	10/24/2013	2013-18/26
<u>pharmacies</u>					
Commerce, Occupational and Professional Licensing	37707	R156-17b	AMD	08/08/2013	2013-13/7
	38075	R156-17b	AMD	12/23/2013	2013-22/17
<u>pharmacists</u>					
Commerce, Occupational and Professional Licensing	37707	R156-17b	AMD	08/08/2013	2013-13/7
	38075	R156-17b	AMD	12/23/2013	2013-22/17
<u>physical therapist</u>					
Commerce, Occupational and Professional Licensing	37526	R156-24b-503	AMD	06/10/2013	2013-9/2
<u>physical therapist assistant</u>					
Commerce, Occupational and Professional Licensing	37526	R156-24b-503	AMD	06/10/2013	2013-9/2
<u>physical therapy</u>					
Commerce, Occupational and Professional Licensing	37526	R156-24b-503	AMD	06/10/2013	2013-9/2
<u>physically handicapped</u>					
Public Service Commission, Administration	37449	R746-343-15	AMD	07/01/2013	2013-8/37
<u>physician assistants</u>					
Commerce, Occupational and Professional Licensing	37705	R156-70a-304	AMD	08/08/2013	2013-13/25
<u>physicians</u>					
Commerce, Occupational and Professional Licensing	37270	R156-67-306	AMD	04/08/2013	2013-5/10
<u>pilot programs</u>					
Education, Administration	38003	R277-405	REP	11/07/2013	2013-19/26
<u>plan review</u>					
Environmental Quality, Drinking Water	37722	R309-500	AMD	08/28/2013	2013-13/73

RULES INDEX

<u>plastic parts</u>					
Environmental Quality, Air Quality	36735	R307-353	NEW	05/01/2013	2012-19/86
	36735	R307-353	CPR	05/01/2013	2013-1/75
	36735	R307-353	CPR	05/01/2013	2013-7/46
<u>pleas</u>					
Pardons (Board Of), Administration	37347	R671-514	5YR	02/15/2013	2013-5/214
	37460	R671-514	AMD	05/22/2013	2013-8/29
<u>PM10</u>					
Environmental Quality, Air Quality	37903	R307-110-10	AMD	11/07/2013	2013-17/29
	37988	R307-110-10	AMD	12/05/2013	2013-19/41
	37904	R307-110-36	AMD	11/07/2013	2013-17/30
<u>PM2.5</u>					
Environmental Quality, Air Quality	37903	R307-110-10	AMD	11/07/2013	2013-17/29
	37988	R307-110-10	AMD	12/05/2013	2013-19/41
	37904	R307-110-36	AMD	11/07/2013	2013-17/30
	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>podiatric physicians</u>					
Commerce, Occupational and Professional Licensing	37997	R156-5a	5YR	09/16/2013	2013-19/147
<u>podiatrists</u>					
Commerce, Occupational and Professional Licensing	37997	R156-5a	5YR	09/16/2013	2013-19/147
<u>policies</u>					
Education, Administration	37280	R277-532	NEW	04/08/2013	2013-5/16
	37891	R277-613	5YR	08/02/2013	2013-17/49
<u>policy</u>					
Education, Administration	38188	R277-495	5YR	12/16/2013	Not Printed
Public Safety, Peace Officer Standards and Training	38128	R728-503	5YR	11/12/2013	2013-23/66
<u>POLST</u>					
Health, Family Health and Preparedness, Licensing	37442	R432-31	AMD	06/07/2013	2013-8/12
<u>pools</u>					
Health, Disease Control and Prevention, Environmental Services	37072	R392-302-3	AMD	02/28/2013	2012-24/26
<u>postal service</u>					
Transportation, Preconstruction	38053	R930-1	REP	12/09/2013	2013-21/37
<u>POTW</u>					
Environmental Quality, Water Quality	37241	R317-14	5YR	01/31/2013	2013-4/52
	38066	R317-14	NSC	11/04/2013	Not Printed
<u>poultry</u>					
Agriculture and Food, Animal Industry	37248	R58-6	R&R	03/25/2013	2013-4/6
<u>precursor</u>					
Commerce, Occupational and Professional Licensing	37959	R156-37c	5YR	09/03/2013	2013-18/61
<u>predators</u>					
Natural Resources, Wildlife Resources	37609	R657-64	AMD	07/08/2013	2013-11/48
<u>preneed life insurance standards</u>					
Insurance, Administration	37909	R590-251	5YR	08/09/2013	2013-17/57
<u>primary disinfectants</u>					
Environmental Quality, Drinking Water	37727	R309-520	AMD	08/28/2013	2013-13/93
<u>primers</u>					
Environmental Quality, Air Quality	37275	R307-342	NEW	08/01/2013	2013-5/17

	37275	R307-342	CPR	08/01/2013	2013-13/208
<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
	38015	R307-351-2	NSC	10/08/2013	Not Printed
	37235	R307-351-4	NSC	02/15/2013	Not Printed
<u>prisons</u>					
Corrections, Administration	38030	R251-105	5YR	09/30/2013	2013-20/50
<u>privacy</u>					
Health, Administration	37596	R380-250	5YR	05/06/2013	2013-11/99
	37679	R380-250	AMD	08/07/2013	2013-13/122
Human Services, Administration	37525	R495-881	5YR	04/15/2013	2013-9/34
Human Services, Services for People with Disabilities	37163	R539-3	AMD	05/10/2013	2013-2/21
<u>private investigators</u>					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	37604	R722-330	AMD	07/08/2013	2013-11/58
<u>Private Proposal Program</u>					
Governor, Economic Development	38152	R357-4	5YR	11/19/2013	2013-24/45
<u>private security officers</u>					
Commerce, Occupational and Professional Licensing	37974	R156-63a	5YR	09/09/2013	2013-19/147
	37944	R156-63a-102	AMD	10/29/2013	2013-18/18
<u>probable cause</u>					
Pardons (Board Of), Administration	37343	R671-510	5YR	02/15/2013	2013-5/212
	37457	R671-510	AMD	05/22/2013	2013-8/26
<u>probationers</u>					
Corrections, Administration	38032	R251-103	5YR	09/30/2013	2013-20/49
<u>procedures</u>					
Public Service Commission, Administration	37759	R746-210	5YR	06/24/2013	2013-14/119
	37760	R746-240	5YR	06/24/2013	2013-14/120
	37758	R746-340	5YR	06/24/2013	2013-14/120
<u>procurement</u>					
Governor, Economic Development	38152	R357-4	5YR	11/19/2013	2013-24/45
<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	37966	R277-106	5YR	09/09/2013	2013-19/149
	37998	R277-106	AMD	11/07/2013	2013-19/12
	37058	R277-502	AMD	01/07/2013	2012-23/34
	37146	R277-502	AMD	02/21/2013	2013-2/10
	38006	R277-502	AMD	11/07/2013	2013-19/32
	38126	R277-502-3	NSC	12/12/2013	Not Printed
	37497	R277-508	5YR	04/08/2013	2013-9/32
	37510	R277-508	AMD	06/07/2013	2013-9/8
<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
<u>professional employer organization licensing</u>					
Insurance, Administration	37911	R590-246	5YR	08/09/2013	2013-17/56

RULES INDEX

professional engineers

Commerce, Occupational and Professional Licensing 37074 R156-22 AMD 01/24/2013 2012-24/7

professional land surveyors

Commerce, Occupational and Professional Licensing 37074 R156-22 AMD 01/24/2013 2012-24/7

professional practices

Education, Administration 37966 R277-106 5YR 09/09/2013 2013-19/149
37998 R277-106 AMD 11/07/2013 2013-19/12

professional structural engineers

Commerce, Occupational and Professional Licensing 37074 R156-22 AMD 01/24/2013 2012-24/7

program benefits

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

programs

Public Service Commission, Administration 37872 R746-404 5YR 07/31/2013 2013-16/68

prohibited items and devices

Human Services, Juvenile Justice Services 37986 R547-1 REP 11/27/2013 2013-19/70
Human Services, Substance Abuse and Mental Health, State Hospital 37212 R525-6 5YR 01/23/2013 2013-4/58
37971 R525-6 NSC 09/30/2013 Not Printed

prohibition

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

proof

Natural Resources, Water Rights 37388 R655-5 5YR 03/07/2013 2013-7/66

property tax

Tax Commission, Property Tax 38057 R884-24P-29 AMD 01/01/2014 2013-21/23
37936 R884-24P-33 AMD 10/24/2013 2013-18/41
38058 R884-24P-53 AMD 01/01/2014 2013-21/24
37109 R884-24P-67 AMD 02/21/2013 2013-1/22

property transactions

Administrative Services, Facilities Construction and Management 37358 R23-22 5YR 02/20/2013 2013-6/49

property values

Natural Resources, Wildlife Resources 38148 R657-61 5YR 11/18/2013 2013-24/47

prosthetics

Health, Health Care Financing, Coverage and Reimbursement Policy 37528 R414-70 AMD 07/01/2013 2013-10/144

psychologists

Commerce, Occupational and Professional Licensing 37965 R156-61 AMD 11/07/2013 2013-19/7

public assistance

Public Service Commission, Administration 37449 R746-343-15 AMD 07/01/2013 2013-8/37
Workforce Services, Employment Development 37067 R986-900-902 AMD 01/08/2013 2012-23/50

public assistance programs

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
37881 R414-308-4 AMD 10/01/2013 2013-16/15

public buildings

Capitol Preservation Board (State), Administration 37064 R131-2 AMD 01/07/2013 2012-23/9

	37799	R131-2-6	AMD	08/21/2013	2013-14/17
<u>public education</u>					
Education, Administration	38184	R277-437	5YR	12/16/2013	Not Printed
<u>public funds</u>					
Education, Administration	37356	R277-113	NEW	04/22/2013	2013-6/28
	37999	R277-113	AMD	11/07/2013	2013-19/14
	37538	R277-113-5	NSC	05/17/2013	Not Printed
<u>public health</u>					
Health, Disease Control and Prevention, Environmental Services	37763	R392-200	AMD	08/26/2013	2013-14/57
	38080	R392-510	NSC	11/11/2013	Not Printed
	37454	R392-510-6	AMD	07/01/2013	2013-8/8
<u>public information</u>					
Administrative Services, Archives	37653	R17-5	5YR	05/17/2013	2013-12/49
	37654	R17-6	5YR	05/17/2013	2013-12/49
	37659	R17-7	5YR	05/28/2013	2013-12/50
	37658	R17-7	AMD	08/15/2013	2013-12/8
	37655	R17-8	5YR	05/17/2013	2013-12/50
Human Resource Management, Administration	37562	R477-2	AMD	07/01/2013	2013-10/155
<u>public notification</u>					
Environmental Quality, Drinking Water	37785	R309-220	NSC	07/19/2013	Not Printed
<u>public petitions</u>					
Natural Resources, Forestry, Fire and State Lands	37751	R652-7	5YR	06/19/2013	2013-14/117
<u>public records</u>					
Career Service Review Office, Administration	37535	R137-2	5YR	04/23/2013	2013-10/213
Natural Resources, Oil, Gas and Mining; Administration	37472	R642-200	5YR	04/02/2013	2013-9/39
<u>public schools</u>					
Education, Administration	37920	R277-410-3	AMD	10/08/2013	2013-17/4
	37921	R277-412	NEW	10/08/2013	2013-17/4
	38045	R277-412-1	NSC	10/30/2013	Not Printed
	37627	R277-436	5YR	05/15/2013	2013-11/97
	37628	R277-460	5YR	05/15/2013	2013-11/98
	37419	R277-460-6	NSC	04/15/2013	Not Printed
	37711	R277-490	5YR	06/10/2013	2013-13/231
	37742	R277-490	AMD	08/07/2013	2013-13/48
	37929	R277-620	NEW	10/08/2013	2013-17/26
<u>public utilities</u>					
Public Service Commission, Administration	37757	R746-110	5YR	06/24/2013	2013-14/119
	37508	R746-200	AMD	11/01/2013	2013-9/18
	37508	R746-200	CPR	11/01/2013	2013-16/55
	37932	R746-200-7	NSC	11/01/2013	Not Printed
	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
	37869	R746-344	5YR	07/31/2013	2013-16/67
	37870	R746-345	5YR	07/31/2013	2013-16/67
	37386	R746-347	5YR	03/05/2013	2013-7/68
	38136	R746-360	5YR	11/13/2013	2013-23/67
	37452	R746-402	5YR	03/28/2013	2013-8/68
	37872	R746-404	5YR	07/31/2013	2013-16/68
	37450	R746-405	5YR	03/28/2013	2013-8/69
	37447	R746-405	AMD	06/20/2013	2013-8/38
	37908	R746-405-2	AMD	11/07/2013	2013-17/37
	37871	R746-406	5YR	07/31/2013	2013-16/68
	37985	R746-600	5YR	09/11/2013	2013-19/151

RULES INDEX

<u>public-private partnerships</u> Transportation, Program Development	37954	R926-10	5YR	09/03/2013	2013-18/65
<u>pumps</u> Environmental Quality, Drinking Water	37731	R309-540	NSC	07/09/2013	Not Printed
<u>purchases</u> Education, Administration	37744	R277-606	REP	08/07/2013	2013-13/55
<u>purchasing</u> Governor, Economic Development	38152	R357-4	5YR	11/19/2013	2013-24/45
<u>pursuits</u> Public Safety, Peace Officer Standards and Training	38128	R728-503	5YR	11/12/2013	2013-23/66
<u>QEFAF</u> Workforce Services, Housing and Community Development	37542	R990-101	AMD	07/01/2013	2013-10/201
<u>Qualified Emergency Food Agencies Fund</u> Workforce Services, Housing and Community Development	37542	R990-101	AMD	07/01/2013	2013-10/201
<u>qualified entities</u> Public Safety, Criminal Investigations and Technical Services, Criminal Identification	37769	R722-900	R&R	08/21/2013	2013-14/81
<u>quality standards</u> Environmental Quality, Drinking Water	37789	R309-200	NSC	07/19/2013	Not Printed
<u>quarantine</u> Agriculture and Food, Plant Industry	37445	R68-14	5YR	03/27/2013	2013-8/53
	37669	R68-16	5YR	05/30/2013	2013-12/51
Health, Disease Control and Prevention, Epidemiology	37345	R386-702	AMD	05/15/2013	2013-5/173
<u>rabies</u> Health, Disease Control and Prevention, Epidemiology	37345	R386-702	AMD	05/15/2013	2013-5/173
<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
	38040	R313-30	5YR	10/04/2013	2013-21/72
	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
	38040	R313-30	5YR	10/04/2013	2013-21/72
	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
	38039	R313-21	5YR	10/04/2013	2013-21/71
	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
	38043	R313-38	5YR	10/07/2013	2013-21/72
	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	2013-9/29	
	37558	R25-5	AMD	06/21/2013	2013-10/6	
	37524	R25-8	5YR	04/15/2013	2013-9/30	
	37557	R25-8	AMD	06/21/2013	2013-10/12	
Labor Commission, Industrial Accidents	37132	R612-4	REP	02/25/2013	2013-2/46	
	37127	R612-400	NEW	02/25/2013	2013-2/76	
	38072	R612-400-5	AMD	12/23/2013	2013-22/146	
Public Service Commission, Administration	37449	R746-343-15	AMD	07/01/2013	2013-8/37	
	37985	R746-600	5YR	09/11/2013	2013-19/151	
Workforce Services, Unemployment Insurance	37652	R994-306	5YR	05/16/2013	2013-12/58	
	37651	R994-307	5YR	05/16/2013	2013-12/59	
<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	
	37620	R70-330	EMR	05/14/2013	2013-11/84	
	37992	R70-330	AMD	11/13/2013	2013-19/4	
<u>reading</u>						
Education, Administration	38001	R277-403	AMD	11/07/2013	2013-19/19	
	37709	R277-406	5YR	06/10/2013	2013-13/230	
	37734	R277-406	AMD	08/07/2013	2013-13/26	
<u>reading proficiency</u>						
Education, Administration	37708	R277-403	5YR	06/10/2013	2013-13/230	
<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	
	37750	R162-2g	AMD	08/21/2013	2013-14/28	
	37865	R162-2g	AMD	10/09/2013	2013-16/4	
	37950	R162-2g-307d	AMD	10/23/2013	2013-18/25	
<u>real estate business</u>						
Commerce, Real Estate	37393	R162-2f	AMD	05/08/2013	2013-7/8	
	37530	R162-2f	AMD	06/21/2013	2013-10/17	
	37394	R162-2f-403	AMD	05/08/2013	2013-7/16	
	37664	R162-2f-403a	NSC	06/24/2013	Not Printed	
<u>reception center licenses</u>						
Alcoholic Beverage Control, Administration	37372	R81-4F-2	AMD	04/30/2013	2013-6/10	
<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	2013-9/39	
	37466	R645-102	5YR	04/01/2013	2013-8/64	
	37474	R645-104	5YR	04/02/2013	2013-9/40	
	37475	R645-401	5YR	04/02/2013	2013-9/40	
<u>reconsiderations</u>						
Career Service Review Office, Administration	37607	R137-1	AMD	07/22/2013	2013-11/10	
<u>record requests</u>						
Human Services, Recovery Services	37668	R527-5-3	AMD	07/22/2013	2013-12/30	

RULES INDEX

records

Education, Administration	37144	R277-487	AMD	02/21/2013	2013-2/7
	37740	R277-487	AMD	08/07/2013	2013-13/43
Regents (Board Of), University of Utah, Administration	37824	R805-2	5YR	07/08/2013	2013-15/134

records access

Career Service Review Office, Administration	37535	R137-2	5YR	04/23/2013	2013-10/213
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records appeal hearings

Administrative Services, Records Committee	37773	R35-1-3	AMD	08/30/2013	2013-14/8
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records fees

Human Services, Recovery Services	37668	R527-5-3	AMD	07/22/2013	2013-12/30
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records retention

Administrative Services, Archives	37653	R17-5	5YR	05/17/2013	2013-12/49
	37654	R17-6	5YR	05/17/2013	2013-12/49
	37659	R17-7	5YR	05/28/2013	2013-12/50
	37658	R17-7	AMD	08/15/2013	2013-12/8
	37655	R17-8	5YR	05/17/2013	2013-12/50

recusal

Environmental Quality, Administration	36776	R305-9	NEW	02/22/2013	2012-19/28
	36776	R305-9	CPR	02/22/2013	2013-2/94

reemployment guidelines

Labor Commission, Industrial Accidents	37128	R612-500	NEW	02/25/2013	2013-2/79
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reemployment workers' compensation guidelines

Labor Commission, Industrial Accidents	37136	R612-8	REP	02/25/2013	2013-2/50
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regionalization

Environmental Quality, Drinking Water	37747	R309-800	NSC	07/09/2013	Not Printed
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registration

Commerce, Real Estate	37677	R162-2e	AMD	08/28/2013	2013-12/19
	37076	R162-57a	AMD	04/02/2013	2012-24/14
Environmental Quality, Radiation Control	37188	R313-70	NSC	01/31/2013	Not Printed
Workforce Services, Unemployment Insurance	37647	R994-403	5YR	05/16/2013	2013-12/60
	37517	R994-403	AMD	06/12/2013	2013-9/23
	37877	R994-403-108b	AMD	09/25/2013	2013-16/50
	37671	R994-403-115c	AMD	08/01/2013	2013-12/38

regulated contaminants

Environmental Quality, Drinking Water	37789	R309-200	NSC	07/19/2013	Not Printed
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rehabilitation

Education, Rehabilitation	37500	R280-200	5YR	04/08/2013	2013-9/34
	37512	R280-200	AMD	06/07/2013	2013-9/12

reimbursement

Health, Health Care Financing, Coverage and Reimbursement Policy	38160	R414-9	5YR	12/02/2013	2013-24/45
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reimbursements

Administrative Services, Finance	37522	R25-6	5YR	04/15/2013	2013-9/29
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reinstatement

Professional Practices Advisory Commission, Administration	38010	R686-102	NEW	11/07/2013	2013-19/124
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relative value study

Insurance, Administration	37960	R590-267	NEW	11/18/2013	2013-18/35
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released-time classes

Education, Administration	37402	R277-610	5YR	03/12/2013	2013-7/63
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	37414	R277-610	AMD	05/16/2013	2013-7/24
<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	2013-9/29
<u>renewal license</u>					
Public Safety, Driver License	37657	R708-45	EMR	05/23/2013	2013-12/45
	37718	R708-45	R&R	08/08/2013	2013-13/202
<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
	37739	R277-484	AMD	08/07/2013	2013-13/39
Professional Practices Advisory Commission, Administration	38009	R686-101	NEW	11/07/2013	2013-19/117
<u>reptiles</u>					
Natural Resources, Wildlife Resources	37667	R657-53	5YR	05/30/2013	2013-12/57
<u>requirements</u>					
Education, Administration	37537	R277-531-3	AMD	06/24/2013	2013-10/26
<u>research</u>					
Education, Administration	37888	R277-492	5YR	08/02/2013	2013-17/47
	37926	R277-492	AMD	10/08/2013	2013-17/17
Health, Center for Health Data, Vital Records and Statistics	37435	R436-17	5YR	03/21/2013	2013-8/63
<u>research funding</u>					
Science Technology and Research Governing Auth., Administration	37963	R856-1	NSC	09/30/2013	Not Printed
<u>residential certification</u>					
Health, Family Health and Preparedness, Child Care Licensing	37661	R430-50	5YR	05/29/2013	2013-12/53
	37775	R430-50-7	AMD	09/01/2013	2013-14/73
<u>residential mortgage</u>					
Commerce, Real Estate	37678	R162-2c	AMD	08/07/2013	2013-12/9
	37949	R162-2c-204	AMD	11/20/2013	2013-18/22
<u>resources</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	37222	R414-305	5YR	01/23/2013	2013-4/54
<u>respite</u>					
Human Services, Aging and Adult Services	38070	R510-401-6	NSC	11/06/2013	Not Printed
<u>retirement</u>					
Human Resource Management, Administration	37571	R477-12	AMD	07/01/2013	2013-10/175
<u>retirement benefits</u>					
Public Service Commission, Administration	37985	R746-600	5YR	09/11/2013	2013-19/151
<u>retrofit</u>					
Education, Administration	37744	R277-606	REP	08/07/2013	2013-13/55
<u>revocation</u>					
Pardons (Board Of), Administration	37349	R671-516	5YR	02/15/2013	2013-5/215

RULES INDEX

	37462	R671-516	AMD	05/22/2013	2013-8/32
<u>revocation procedures</u>					
Environmental Quality, Environmental Response and Remediation	37482	R311-201	NSC	04/29/2013	Not Printed
	37513	R311-500	NSC	04/29/2013	Not Printed
<u>right-of-way</u>					
Transportation, Administration	37094	R907-64	R&R	02/07/2013	2013-1/23
	37951	R907-64	5YR	09/03/2013	2013-18/64
	37952	R907-65	5YR	09/03/2013	2013-18/64
Transportation, Preconstruction	37957	R930-7-5	NSC	09/13/2013	Not Printed
	37995	R930-7-13	AMD	11/07/2013	2013-19/132
<u>rights</u>					
Human Services, Services for People with Disabilities	37163	R539-3	CPR	05/10/2013	2013-7/51
<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
Natural Resources, Forestry, Fire and State Lands	37752	R652-110	5YR	06/19/2013	2013-14/118
School and Institutional Trust Lands, Administration	38181	R850-110	5YR	12/16/2013	Not Printed
<u>rules</u>					
Public Service Commission, Administration	37508	R746-200	AMD	11/01/2013	2013-9/18
	37508	R746-200	CPR	11/01/2013	2013-16/55
	37932	R746-200-7	NSC	11/01/2013	Not Printed
	37759	R746-210	5YR	06/24/2013	2013-14/119
<u>rules and procedures</u>					
Health, Disease Control and Prevention, Epidemiology	37345	R386-702	AMD	05/15/2013	2013-5/173
Health, Disease Control and Prevention, Immunization	37806	R396-100	5YR	06/28/2013	2013-14/105
Human Resource Management, Administration	37561	R477-1-1	AMD	07/01/2013	2013-10/150
	37572	R477-13	AMD	07/01/2013	2013-10/177
Public Service Commission, Administration	37757	R746-110	5YR	06/24/2013	2013-14/119
	37041	R746-320	AMD	01/07/2013	2012-23/48
	37451	R746-332	5YR	03/28/2013	2013-8/68
	37869	R746-344	5YR	07/31/2013	2013-16/67
	37870	R746-345	5YR	07/31/2013	2013-16/67
	37452	R746-402	5YR	03/28/2013	2013-8/68
	37872	R746-404	5YR	07/31/2013	2013-16/68
	37450	R746-405	5YR	03/28/2013	2013-8/69
	37447	R746-405	AMD	06/20/2013	2013-8/38
	37908	R746-405-2	AMD	11/07/2013	2013-17/37
<u>Rural Broadband Service Fund</u>					
Governor, Economic Development	37206	R357-2	EXT	01/16/2013	2013-4/63
	37204	R357-2	REP	05/01/2013	2013-3/96
<u>rural economic development</u>					
Governor, Economic Development	37206	R357-2	EXT	01/16/2013	2013-4/63
	37204	R357-2	REP	05/01/2013	2013-3/96
<u>safety</u>					
Environmental Quality, Radiation Control Regents (Board Of), University of Utah, Administration	37191	R313-15	AMD	03/19/2013	2013-3/18
	37407	R805-1	5YR	03/12/2013	2013-7/69
	37770	R805-1	AMD	08/21/2013	2013-14/85
<u>safety regulations</u>					
Transportation, Motor Carrier	37844	R909-19	AMD	09/10/2013	2013-15/115
	37624	R909-19-7	EMR	05/14/2013	2013-11/93
	37875	R909-75	AMD	09/23/2013	2013-16/38

<u>SAIDI/SAIFI</u>						
Public Service Commission, Administration	37116	R746-313	AMD	02/21/2013	2013-2/87	
<u>salaries</u>						
Human Resource Management, Administration	37565	R477-6	AMD	07/01/2013	2013-10/160	
<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>satellite</u>						
Education, Administration	37887	R277-482	5YR	08/02/2013	2013-17/47	
<u>satellites</u>						
Education, Administration	37925	R277-482	AMD	10/08/2013	2013-17/13	
<u>scenic byways</u>						
Transportation, Program Development	38051	R926-14	AMD	12/09/2013	2013-21/32	
<u>scholarships</u>						
Education, Administration	37889	R277-526	5YR	08/02/2013	2013-17/48	
	37713	R277-602	5YR	06/10/2013	2013-13/232	
	37743	R277-602	AMD	08/07/2013	2013-13/51	
Health, Family Health and Preparedness, Primary Care and Rural Health	38192	R434-40	EXD	12/16/2013	Not Printed	
Regents (Board Of), Administration	37586	R765-604	AMD	07/08/2013	2013-11/61	
	37587	R765-609	AMD	07/08/2013	2013-11/65	
<u>school boards</u>						
Education, Administration	37355	R277-101	AMD	04/22/2013	2013-6/26	
<u>school buses</u>						
Education, Administration	37400	R277-600	5YR	03/12/2013	2013-7/62	
	37413	R277-600	AMD	05/16/2013	2013-7/20	
	37744	R277-606	REP	08/07/2013	2013-13/55	
<u>school certification</u>						
Commerce, Real Estate	37750	R162-2g	AMD	08/21/2013	2013-14/28	
<u>school choice</u>						
Education, Administration	37495	R277-483	5YR	04/08/2013	2013-9/31	
<u>school community councils</u>						
Education, Administration	37629	R277-491	5YR	05/15/2013	2013-11/98	
	37636	R277-491	R&R	07/08/2013	2013-11/17	
<u>school enrollment</u>						
Education, Administration	37756	R277-445-2	NSC	07/19/2013	Not Printed	
	37278	R277-445-3	AMD	04/08/2013	2013-5/13	
	37737	R277-445-3	AMD	08/07/2013	2013-13/30	
<u>school fees</u>						
Education, Administration	37755	R277-407-2	NSC	07/19/2013	Not Printed	
	37735	R277-407-3	AMD	08/07/2013	2013-13/28	
<u>school personnel</u>						
Education, Administration	37497	R277-508	5YR	04/08/2013	2013-9/32	
	37510	R277-508	AMD	06/07/2013	2013-9/8	
<u>school reports</u>						
Education, Administration	38109	R277-497	5YR	11/08/2013	2013-23/63	

RULES INDEX

school sponsored activities

Education, Administration	37356	R277-113	NEW	04/22/2013	2013-6/28
	37999	R277-113	AMD	11/07/2013	2013-19/14
	37538	R277-113-5	NSC	05/17/2013	Not Printed

school transportation

Education, Administration	37400	R277-600	5YR	03/12/2013	2013-7/62
	37413	R277-600	AMD	05/16/2013	2013-7/20

school vision

Health, Disease Control and Prevention, Health Promotion	37028	R384-201	NEW	02/20/2013	2012-23/42
	37453	R384-201	AMD	07/01/2013	2013-8/6

school year

Education, Administration	37499	R277-751	5YR	04/08/2013	2013-9/33
	37511	R277-751	AMD	06/07/2013	2013-9/10

schools

Education, Administration	37710	R277-477	5YR	06/10/2013	2013-13/231
	37738	R277-477	R&R	08/07/2013	2013-13/32
	38005	R277-477-4	AMD	11/07/2013	2013-19/31
	37714	R277-617	5YR	06/10/2013	2013-13/233
	37745	R277-617	AMD	08/07/2013	2013-13/56
	37406	R277-719	5YR	03/12/2013	2013-7/65
Environmental Quality, Air Quality	37252	R307-801	5YR	02/06/2013	2013-5/197
Health, Disease Control and Prevention, Environmental Services	37763	R392-200	AMD	08/26/2013	2013-14/57

science

Education, Administration	37888	R277-492	5YR	08/02/2013	2013-17/47
	37926	R277-492	AMD	10/08/2013	2013-17/17

scooters

Regents (Board Of), University of Utah, Administration	37407	R805-1	5YR	03/12/2013	2013-7/69
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SDWA

Environmental Quality, Drinking Water	37749	R309-705	NSC	07/09/2013	Not Printed
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sealants

Environmental Quality, Air Quality	37275	R307-342	NEW	08/01/2013	2013-5/17
	37275	R307-342	CPR	08/01/2013	2013-13/208

search and rescue

Public Safety, Homeland Security	37170	R704-1	NSC	01/23/2013	Not Printed
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secondary disinfectants

Environmental Quality, Drinking Water	37727	R309-520	AMD	08/28/2013	2013-13/93
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secondary education

Regents (Board Of), Administration	37586	R765-604	AMD	07/08/2013	2013-11/61
	37587	R765-609	AMD	07/08/2013	2013-11/65

secondhand merchandise dealers

Commerce, Consumer Protection	37897	R152-32a	5YR	08/05/2013	2013-17/45
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Section 401

Environmental Quality, Water Quality	37362	R317-15	NEW	08/19/2013	2013-6/44
	37362	R317-15	CPR	08/19/2013	2013-14/101

secure area hearing rooms

Regents (Board Of), Administration	37552	R765-254	5YR	04/29/2013	2013-10/216
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secure areas

Human Services, Substance Abuse and Mental Health, State Hospital	37212	R525-6	5YR	01/23/2013	2013-4/58
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	37971	R525-6	NSC	09/30/2013	Not Printed
<u>securities</u>					
Commerce, Securities	37660	R164-31	5YR	05/28/2013	2013-12/52
	37042	R164-31-1	AMD	01/08/2013	2012-23/26
<u>securities regulations</u>					
Commerce, Securities	37660	R164-31	5YR	05/28/2013	2013-12/52
	37042	R164-31-1	AMD	01/08/2013	2012-23/26
<u>security guards</u>					
Commerce, Occupational and Professional Licensing	37974	R156-63a	5YR	09/09/2013	2013-19/147
	37944	R156-63a-102	AMD	10/29/2013	2013-18/18
	37975	R156-63b	5YR	09/09/2013	2013-19/148
	37945	R156-63b-102	AMD	10/29/2013	2013-18/19
<u>sedimentation</u>					
Environmental Quality, Drinking Water	37728	R309-525	AMD	08/28/2013	2013-13/103
<u>self insurance plans</u>					
Labor Commission, Industrial Accidents	37131	R612-3	REP	02/25/2013	2013-2/43
<u>self-service storage</u>					
Insurance, Administration	38038	R590-245	5YR	10/01/2013	2013-20/52
<u>seminars</u>					
Education, Administration	37634	R277-411	NEW	07/08/2013	2013-11/16
	37929	R277-620	NEW	10/08/2013	2013-17/26
<u>seniors</u>					
Human Services, Aging and Adult Services	37277	R510-105	5YR	02/08/2013	2013-5/210
<u>septic tanks</u>					
Environmental Quality, Water Quality	37575	R317-4	R&R	09/01/2013	2013-10/27
<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, Adjudication	38115	R602-4	5YR	11/08/2013	2013-23/64
	38108	R602-6	5YR	11/08/2013	2013-23/65
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>					
Environmental Quality, Water Quality	37853	R317-5	AMD	09/24/2013	2013-15/80
Public Service Commission, Administration	37385	R746-330	5YR	03/05/2013	2013-7/68
<u>sex offender registry</u>					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	37232	R722-360	NEW	03/25/2013	2013-4/46
<u>shorthand reporter</u>					
Commerce, Occupational and Professional Licensing	37958	R156-74	5YR	09/03/2013	2013-18/61
<u>skateboards</u>					
Regents (Board Of), University of Utah, Administration	37407	R805-1	5YR	03/12/2013	2013-7/69

RULES INDEX

SLEAP

Regents (Board Of), Administration 37540 R765-606 5YR 04/24/2013 2013-10/218

slow sand filtration

Environmental Quality, Drinking Water 37729 R309-530 AMD 08/28/2013 2013-13/114

smoking

Health, Disease Control and Prevention, 38080 R392-510 NSC 11/11/2013 Not Printed
Environmental Services

37454 R392-510-6 AMD 07/01/2013 2013-8/8

social security numbers

Human Services, Services for People with Disabilities 37110 R539-1 AMD 02/13/2013 2013-1/2
37245 R539-1-3 AMD 04/18/2013 2013-4/21

social services

Human Services, Child and Family Services 37502 R512-200 5YR 04/08/2013 2013-9/35
37503 R512-201 5YR 04/08/2013 2013-9/36
37504 R512-202 5YR 04/08/2013 2013-9/36
37639 R512-300 5YR 05/16/2013 2013-12/55
37640 R512-301 5YR 05/16/2013 2013-12/55
37642 R512-305 5YR 05/16/2013 2013-12/56

solid waste management

Environmental Quality, Solid and Hazardous Waste 37282 R315-301 5YR 02/13/2013 2013-5/198
37322 R315-301 AMD 04/25/2013 2013-5/116
37283 R315-302 5YR 02/13/2013 2013-5/198
37323 R315-302 AMD 04/25/2013 2013-5/122
37284 R315-303 5YR 02/13/2013 2013-5/199
37324 R315-303 AMD 04/25/2013 2013-5/127
37285 R315-304 5YR 02/13/2013 2013-5/200
37325 R315-304 AMD 04/25/2013 2013-5/132
37286 R315-305 5YR 02/13/2013 2013-5/200
37326 R315-305 AMD 04/25/2013 2013-5/134
37287 R315-306 5YR 02/13/2013 2013-5/201
37327 R315-306 AMD 04/25/2013 2013-5/136
37288 R315-307 5YR 02/13/2013 2013-5/201
37328 R315-307-3 AMD 04/25/2013 2013-5/138
37289 R315-308 5YR 02/13/2013 2013-5/202
37329 R315-308 AMD 04/25/2013 2013-5/139
37290 R315-309 5YR 02/13/2013 2013-5/202
37330 R315-309 AMD 04/25/2013 2013-5/144
37291 R315-310 5YR 02/13/2013 2013-5/203
37331 R315-310 AMD 04/25/2013 2013-5/151
37292 R315-311 5YR 02/13/2013 2013-5/204
37332 R315-311 AMD 04/25/2013 2013-5/155
37293 R315-312 5YR 02/13/2013 2013-5/204
37333 R315-312 AMD 04/25/2013 2013-5/157
37294 R315-313 5YR 02/13/2013 2013-5/205
37334 R315-313-2 AMD 04/25/2013 2013-5/159
37295 R315-314 5YR 02/13/2013 2013-5/205
37335 R315-314 AMD 04/25/2013 2013-5/160
37296 R315-315 5YR 02/13/2013 2013-5/206
37336 R315-315 AMD 04/25/2013 2013-5/163
37297 R315-316 5YR 02/13/2013 2013-5/206
37337 R315-316 AMD 04/25/2013 2013-5/165
37298 R315-317 5YR 02/13/2013 2013-5/207
37338 R315-317 AMD 04/25/2013 2013-5/167
37480 R315-317 NSC 04/29/2013 Not Printed
37299 R315-318 5YR 02/13/2013 2013-5/208
37339 R315-318 AMD 04/25/2013 2013-5/168
37300 R315-320 5YR 02/13/2013 2013-5/208
37340 R315-320 AMD 04/25/2013 2013-5/169

solvent cleaning

Environmental Quality, Air Quality 36737 R307-355 NEW 02/01/2013 2012-19/91

<u>source development</u>						
Environmental Quality, Drinking Water	37726	R309-515	AMD	08/28/2013	2013-13/84	
	36562	R309-515-6	AMD	01/16/2013	2012-16/66	
	36562	R309-515-6	CPR	01/16/2013	2012-23/70	
<u>source maintenance</u>						
Environmental Quality, Drinking Water	37726	R309-515	AMD	08/28/2013	2013-13/84	
	36562	R309-515-6	AMD	01/16/2013	2012-16/66	
	36562	R309-515-6	CPR	01/16/2013	2012-23/70	
<u>source materials</u>						
Environmental Quality, Radiation Control	37181	R313-21	NSC	01/31/2013	Not Printed	
	38039	R313-21	5YR	10/04/2013	2013-21/71	
<u>source monitoring</u>						
Environmental Quality, Drinking Water	37786	R309-205	NSC	07/19/2013	Not Printed	
<u>sovereign lands</u>						
Natural Resources, Forestry, Fire and State Lands	37623	R652-70-2300	AMD	07/08/2013	2013-11/46	
<u>spas</u>						
Health, Disease Control and Prevention, Environmental Services	37072	R392-302-3	AMD	02/28/2013	2012-24/26	
<u>special education</u>						
Education, Administration	37930	R277-750-3	AMD	10/08/2013	2013-17/28	
<u>special educators</u>						
Education, Administration	37712	R277-525	5YR	06/10/2013	2013-13/232	
<u>special needs students</u>						
Education, Administration	37713	R277-602	5YR	06/10/2013	2013-13/232	
	37743	R277-602	AMD	08/07/2013	2013-13/51	
<u>specific licenses</u>						
Environmental Quality, Radiation Control	37195	R313-22	AMD	03/19/2013	2013-3/56	
<u>speed limits</u>						
Regents (Board Of), University of Utah, Administration	37770	R805-1	AMD	08/21/2013	2013-14/85	
<u>sponsor-a-highway</u>						
Transportation, Operations, Maintenance	37874	R918-4	5YR	08/01/2013	2013-16/70	
<u>stabilization</u>						
Environmental Quality, Drinking Water	37730	R309-535	AMD	08/28/2013	2013-13/117	
<u>standards</u>						
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 Capitol visits</u>						
Education, Administration	37921	R277-412	NEW	10/08/2013	2013-17/4	
	38045	R277-412-1	NSC	10/30/2013	Not Printed	
<u>state employees</u>						
Administrative Services, Finance	37521	R25-5	5YR	04/15/2013	2013-9/29	
	37558	R25-5	AMD	06/21/2013	2013-10/6	
	37523	R25-7	5YR	04/15/2013	2013-9/30	
	37556	R25-7	AMD	06/21/2013	2013-10/7	
	38174	R25-7	EMR	01/01/2014	Not Printed	
	37524	R25-8	5YR	04/15/2013	2013-9/30	

RULES INDEX

Human Resource Management, Administration	37557 37564	R25-8 R477-5	AMD AMD	06/21/2013 07/01/2013	2013-10/12 2013-10/159
<u>state hospital</u> Human Services, Substance Abuse and Mental Health, State Hospital	37212 37971	R525-6 R525-6	5YR NSC	01/23/2013 09/30/2013	2013-4/58 Not Printed
<u>state records committee</u> Administrative Services, Records Committee	37773	R35-1-3	AMD	08/30/2013	2013-14/8
<u>state surplus property</u> Administrative Services, Purchasing and General Services	37937 37938	R33-11 R33-11	EMR AMD	08/23/2013 10/24/2013	2013-18/53 2013-18/6
<u>state vehicle use</u> Administrative Services, Fleet Operations	36949 37392	R27-3 R27-3-5	AMD AMD	03/07/2013 06/07/2013	2012-22/11 2013-7/4
<u>Statewide Mutual Aid Act</u> Public Safety, Homeland Security	37117	R704-2	NEW	02/25/2013	2013-2/83
<u>stipends</u> Education, Administration	37712	R277-525	5YR	06/10/2013	2013-13/232
<u>storage tanks</u> Environmental Quality, Drinking Water	37732	R309-545	NSC	07/09/2013	Not Printed
<u>student achievement</u> Education, Administration	37993 38002	R277-404 R277-404	5YR AMD	09/13/2013 11/07/2013	2013-19/149 2013-19/22
<u>student competency</u> Education, Administration	37404 37415	R277-702 R277-702	5YR AMD	03/12/2013 05/16/2013	2013-7/64 2013-7/26
<u>student eligibility</u> Workforce Services, Unemployment Insurance	37647 37517 37877 37671	R994-403 R994-403 R994-403-108b R994-403-115c	5YR AMD AMD AMD	05/16/2013 06/12/2013 09/25/2013 08/01/2013	2013-12/60 2013-9/23 2013-16/50 2013-12/38
<u>student participation</u> Education, Administration	38041 38042	R277-494 R277-494	5YR AMD	10/04/2013 12/09/2013	2013-21/71 2013-21/6
<u>student teachers</u> Education, Administration	37059	R277-509	AMD	01/07/2013	2012-23/39
<u>students</u> Education, Administration	37708 38001 37634 37496 37144 37740 37746 37405 37244 37808	R277-403 R277-403 R277-411 R277-485 R277-487 R277-487 R277-619 R277-709 R277-709-3 R277-713	5YR AMD NEW 5YR AMD AMD NEW 5YR NSC AMD	06/10/2013 11/07/2013 07/08/2013 04/08/2013 02/21/2013 08/07/2013 08/07/2013 03/12/2013 02/15/2013 08/26/2013	2013-13/230 2013-19/19 2013-11/16 2013-9/32 2013-2/7 2013-13/43 2013-13/58 2013-7/64 Not Printed 2013-14/34
<u>students at risk</u> Education, Administration	37627	R277-436	5YR	05/15/2013	2013-11/97
<u>substance abuse prevention</u> Education, Administration	37628	R277-460	5YR	05/15/2013	2013-11/98

	37419	R277-460-6	NSC	04/15/2013	Not Printed
<u>substance use disorder counselors</u>					
Commerce, Occupational and Professional Licensing	38017	R156-60d	AMD	11/21/2013	2013-20/23
<u>subsurface tracer studies</u>					
Environmental Quality, Radiation Control	37187	R313-38	NSC	01/31/2013	Not Printed
	38043	R313-38	5YR	10/07/2013	2013-21/72
<u>suggestions</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	37213	R525-7	5YR	01/23/2013	2013-4/58
	37972	R525-7	NSC	09/30/2013	Not Printed
<u>suicide prevention programs</u>					
Education, Administration	37929	R277-620	NEW	10/08/2013	2013-17/26
<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
	37754	R156-1	AMD	08/22/2013	2013-14/21
	38020	R156-1	AMD	11/21/2013	2013-20/17
	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>surface water treatment</u>					
Environmental Quality, Drinking Water	37723	R309-505	NSC	07/09/2013	Not Printed
<u>surface water treatment plant monitoring</u>					
Environmental Quality, Drinking Water	37788	R309-215	NSC	07/19/2013	Not Printed
<u>surveys</u>					
Environmental Quality, Radiation Control	37197	R313-30	AMD	03/19/2013	2013-3/76
	38040	R313-30	5YR	10/04/2013	2013-21/72
	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
	38043	R313-38	5YR	10/07/2013	2013-21/72
Judicial Performance Evaluation Commission, Administration	37382	R597-3	AMD	05/14/2013	2013-7/38
<u>suspension</u>					
Transportation, Administration	37953	R907-67	5YR	09/03/2013	2013-18/65
<u>tailings</u>					
Environmental Quality, Radiation Control	37196	R313-24	AMD	03/19/2013	2013-3/74
<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
	37447	R746-405	AMD	06/20/2013	2013-8/38
	37908	R746-405-2	AMD	11/07/2013	2013-17/37

RULES INDEX

tax credits

Environmental Quality, Air Quality	37990	R307-121	AMD	01/01/2014	2013-19/42
Governor, Economic Development	37666	R357-3	5YR	05/30/2013	2013-12/52
	37207	R357-9	AMD	05/01/2013	2013-4/16

tax exemptions

Environmental Quality, Water Quality	37856	R317-12	AMD	09/24/2013	2013-15/107
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tax returns

Tax Commission, Auditing	37108	R865-9I-13	AMD	02/21/2013	2013-1/20
	37178	R865-9I-46	NSC	01/31/2013	Not Printed

taxation

Tax Commission, Administration	38016	R861-1A-9	NSC	10/08/2013	Not Printed
	36991	R861-1A-12	AMD	01/10/2013	2012-22/144
	37104	R861-1A-26	AMD	02/21/2013	2013-1/15
	37935	R861-1A-29	AMD	10/24/2013	2013-18/40
	37106	R861-1A-37	AMD	02/21/2013	2013-1/17
	37107	R861-1A-46	AMD	02/21/2013	2013-1/18
Tax Commission, Motor Vehicle Enforcement	37699	R877-23V-21	AMD	08/22/2013	2013-13/205
Tax Commission, Property Tax	38057	R884-24P-29	AMD	01/01/2014	2013-21/23
	37936	R884-24P-33	AMD	10/24/2013	2013-18/41
	38058	R884-24P-53	AMD	01/01/2014	2013-21/24
	37109	R884-24P-67	AMD	02/21/2013	2013-1/22

taxes

Human Services, Recovery Services	37506	R527-475	5YR	04/08/2013	2013-9/37
Insurance, Administration	37171	R590-157	5YR	01/07/2013	2013-3/112

teacher licensing

Professional Practices Advisory Commission, Administration	37243	R686-100	5YR	02/01/2013	2013-4/60
	38008	R686-100	R&R	11/07/2013	2013-19/101
	38127	R686-100-1	NSC	12/12/2013	Not Printed

teacher preparation programs

Education, Administration	37059	R277-509	AMD	01/07/2013	2012-23/39
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teachers

Education, Administration	37497	R277-508	5YR	04/08/2013	2013-9/32
	37510	R277-508	AMD	06/07/2013	2013-9/8
Professional Practices Advisory Commission, Administration	37637	R686-101	5YR	05/16/2013	2013-12/57
	37674	R686-101	AMD	09/10/2013	2013-12/33
	37638	R686-102	5YR	05/16/2013	2013-12/58
	37675	R686-102	AMD	09/10/2013	2013-12/34

technology

Education, Administration	37888	R277-492	5YR	08/02/2013	2013-17/47
	37926	R277-492	AMD	10/08/2013	2013-17/17
	37714	R277-617	5YR	06/10/2013	2013-13/233
	37745	R277-617	AMD	08/07/2013	2013-13/56

technology funding

Science Technology and Research Governing Auth., Administration	37963	R856-1	NSC	09/30/2013	Not Printed
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telecommunications

Public Service Commission, Administration	37760	R746-240	5YR	06/24/2013	2013-14/120
	37758	R746-340	5YR	06/24/2013	2013-14/120
	37449	R746-343-15	AMD	07/01/2013	2013-8/37
	37869	R746-344	5YR	07/31/2013	2013-16/67
	37870	R746-345	5YR	07/31/2013	2013-16/67
	37386	R746-347	5YR	03/05/2013	2013-7/68
	38136	R746-360	5YR	11/13/2013	2013-23/67
Transportation, Administration	37094	R907-64	R&R	02/07/2013	2013-1/23

	37951	R907-64	5YR	09/03/2013	2013-18/64
<u>telecommuting</u>					
Human Resource Management, Administration	37567	R477-8	AMD	07/01/2013	2013-10/167
<u>telephone utility regulations</u>					
Public Service Commission, Administration	37758	R746-340	5YR	06/24/2013	2013-14/120
	37870	R746-345	5YR	07/31/2013	2013-16/67
<u>telephones</u>					
Public Service Commission, Administration	37760	R746-240	5YR	06/24/2013	2013-14/120
<u>temporary beer event permits</u>					
Alcoholic Beverage Control, Administration	37836	R81-10B	5YR	07/11/2013	2013-15/125
<u>temporary identification card</u>					
Public Safety, Driver License	37555	R708-49	NEW	06/30/2013	2013-10/194
	38037	R708-49	NSC	10/08/2013	Not Printed
<u>terminally ill</u>					
Corrections, Administration	37389	R251-114	5YR	03/07/2013	2013-7/61
<u>therapists</u>					
Commerce, Occupational and Professional Licensing	37948	R156-60	AMD	10/22/2013	2013-18/16
	38068	R156-60b	AMD	12/23/2013	2013-22/42
<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
	37622	R612-200-1	AMD	07/08/2013	2013-11/34
<u>timelines</u>					
Education, Administration	37887	R277-482	5YR	08/02/2013	2013-17/47
	37925	R277-482	AMD	10/08/2013	2013-17/13
<u>timeliness</u>					
Pardons (Board Of), Administration	37348	R671-515	5YR	02/15/2013	2013-5/215
	37461	R671-515	AMD	05/22/2013	2013-8/31
<u>timeshare</u>					
Commerce, Real Estate	37076	R162-57a	AMD	04/02/2013	2012-24/14
<u>title dual licensees</u>					
Insurance, Title and Escrow Commission	38118	R592-5-3	NSC	12/12/2013	Not Printed
<u>title escrow filings</u>					
Insurance, Title and Escrow Commission	38124	R592-15	NSC	12/12/2013	Not Printed
<u>title insurance</u>					
Insurance, Title and Escrow Commission	38117	R592-2-3	NSC	12/12/2013	Not Printed
	37588	R592-2-7	LNR	05/01/2013	2013-11/107
	38119	R592-6	NSC	12/12/2013	Not Printed
	37841	R592-10	5YR	07/12/2013	2013-15/128
	38122	R592-10	NSC	12/12/2013	Not Printed
<u>title insurance recovery assessment</u>					
Insurance, Title and Escrow Commission	38121	R592-9	NSC	12/12/2013	Not Printed
<u>tolls</u>					
Transportation, Program Development	37954	R926-10	5YR	09/03/2013	2013-18/65
<u>tollway development</u>					
Transportation Commission, Administration	37955	R940-2	5YR	09/03/2013	2013-18/66
<u>tollways</u>					
Transportation Commission, Administration	37955	R940-2	5YR	09/03/2013	2013-18/66

RULES INDEX

<u>towing</u>					
Transportation, Motor Carrier	37844	R909-19	AMD	09/10/2013	2013-15/115
	37624	R909-19-7	EMR	05/14/2013	2013-11/93
<u>trainee registration</u>					
Commerce, Real Estate	36973	R162-2g	AMD	01/02/2013	2012-22/19
	37865	R162-2g	AMD	10/09/2013	2013-16/4
	37950	R162-2g-307d	AMD	10/23/2013	2013-18/25
<u>training</u>					
Education, Administration	37887	R277-482	5YR	08/02/2013	2013-17/47
	37925	R277-482	AMD	10/08/2013	2013-17/13
	37891	R277-613	5YR	08/02/2013	2013-17/49
<u>training programs</u>					
Human Resource Management, Administration	37569	R477-10-3	AMD	07/01/2013	2013-10/172
<u>Transition to Adult Living</u>					
Human Services, Child and Family Services	37642	R512-305	5YR	05/16/2013	2013-12/56
<u>transmission and distribution pipelines</u>					
Environmental Quality, Drinking Water	37733	R309-550	NSC	07/09/2013	Not Printed
<u>transportation</u>					
Administrative Services, Finance	37523	R25-7	5YR	04/15/2013	2013-9/30
	37556	R25-7	AMD	06/21/2013	2013-10/7
	38174	R25-7	EMR	01/01/2014	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
Transportation, Administration	38035	R907-66-5	NSC	10/07/2013	Not Printed
	37953	R907-67	5YR	09/03/2013	2013-18/65
Transportation, Program Development	37954	R926-10	5YR	09/03/2013	2013-18/65
	38051	R926-14	AMD	12/09/2013	2013-21/32
<u>Transportation Infrastructure Loan Fund</u>					
Transportation Commission, Administration	38195	R940-3	5YR	12/18/2013	Not Printed
<u>transportation law</u>					
Administrative Services, Facilities Construction and Management	37357	R23-13	5YR	02/20/2013	2013-6/49
<u>transportation safety</u>					
Transportation, Motor Carrier	37996	R909-1	AMD	11/07/2013	2013-19/129
	38137	R909-1-8	NSC	12/12/2013	Not Printed
<u>trauma center designation</u>					
Health, Family Health and Preparedness, Emergency Medical Services	37689	R426-9	NEW	10/18/2013	2013-13/178
<u>trauma reporting</u>					
Health, Family Health and Preparedness, Emergency Medical Services	37689	R426-9	NEW	10/18/2013	2013-13/178
<u>trespass</u>					
Natural Resources, Parks and Recreation	37803	R651-620	5YR	06/27/2013	2013-14/116
<u>trichomoniasis</u>					
Agriculture and Food, Animal Industry	36962	R58-21	AMD	01/04/2013	2012-22/16
<u>trucks</u>					
Transportation, Motor Carrier	37996	R909-1	AMD	11/07/2013	2013-19/129
	38137	R909-1-8	NSC	12/12/2013	Not Printed
	37844	R909-19	AMD	09/10/2013	2013-15/115
	37624	R909-19-7	EMR	05/14/2013	2013-11/93
<u>trust account records</u>					
Commerce, Real Estate	37393	R162-2f	AMD	05/08/2013	2013-7/8

	37530	R162-2f	AMD	06/21/2013	2013-10/17
	37394	R162-2f-403	AMD	05/08/2013	2013-7/16
	37664	R162-2f-403a	NSC	06/24/2013	Not Printed
<u>trust lands funds</u>					
Education, Administration	37710	R277-477	5YR	06/10/2013	2013-13/231
	37738	R277-477	R&R	08/07/2013	2013-13/32
	38005	R277-477-4	AMD	11/07/2013	2013-19/31
<u>trusts</u>					
Financial Institutions, Administration	37940	R331-21	5YR	08/23/2013	2013-18/63
<u>UCJIS</u>					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	37769	R722-900	R&R	08/21/2013	2013-14/81
<u>ultraviolet light safety</u>					
Health, Disease Control and Prevention, Environmental Services	37251	R392-700	5YR	02/06/2013	2013-5/209
<u>unarmed combat</u>					
Governor, Economic Development, Pete Suazo Utah Athletic Commission	37672	R359-1	AMD	09/13/2013	2013-12/21
<u>unavoidable breakdowns</u>					
Environmental Quality, Air Quality	37902	R307-107	5YR	08/08/2013	2013-17/49
<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>underground injection control</u>					
Environmental Quality, Water Quality	37855	R317-7	AMD	09/24/2013	2013-15/96
<u>underground storage tanks</u>					
Environmental Quality, Environmental Response and Remediation	37481	R311-200	NSC	04/29/2013	Not Printed
	37482	R311-201	NSC	04/29/2013	Not Printed
	37483	R311-203	NSC	04/29/2013	Not Printed
	37484	R311-204	NSC	04/29/2013	Not Printed
	37485	R311-205	NSC	04/29/2013	Not Printed
	37486	R311-206	NSC	04/29/2013	Not Printed
	37579	R311-207	NSC	05/17/2013	Not Printed
	37488	R311-208	NSC	04/29/2013	Not Printed
	37489	R311-209	NSC	04/29/2013	Not Printed
	37490	R311-211	NSC	04/29/2013	Not Printed
	37491	R311-212	NSC	04/29/2013	Not Printed
<u>unemployment compensation</u>					
Workforce Services, Unemployment Insurance	37518	R994-201	5YR	04/11/2013	2013-9/44
	37543	R994-202	5YR	04/25/2013	2013-10/218
	37544	R994-208	5YR	04/25/2013	2013-10/219
	37066	R994-305	AMD	01/08/2013	2012-23/52
	37023	R994-305-1201	AMD	01/02/2013	2012-22/147
	37652	R994-306	5YR	05/16/2013	2013-12/58
	37651	R994-307	5YR	05/16/2013	2013-12/59
	37647	R994-403	5YR	05/16/2013	2013-12/60
	37517	R994-403	AMD	06/12/2013	2013-9/23
	37877	R994-403-108b	AMD	09/25/2013	2013-16/50
	37671	R994-403-115c	AMD	08/01/2013	2013-12/38
	37648	R994-405	5YR	05/16/2013	2013-12/60
	37024	R994-406	AMD	01/02/2013	2012-22/148
	37238	R994-406-301	AMD	04/02/2013	2013-4/48
	37516	R994-406-403	AMD	06/12/2013	2013-9/26
	37649	R994-508	5YR	05/16/2013	2013-12/61
	37670	R994-508-102	AMD	08/01/2013	2013-12/39

RULES INDEX

	37876	R994-508-307	AMD	09/25/2013	2013-16/51
<u>uninsured employers</u>					
Labor Commission, Industrial Accidents	37137	R612-9	REP	02/25/2013	2013-2/52
<u>Uninsured Motorist Database</u>					
Public Safety, Driver License	37554	R708-32	R&R	06/30/2013	2013-10/192
<u>units</u>					
Environmental Quality, Radiation Control	37189	R313-12	AMD	03/19/2013	2013-3/6
	37597	R313-12-3	NSC	06/07/2013	Not Printed
<u>universal health insurance application</u>					
Insurance, Administration	37768	R590-247	5YR	06/26/2013	2013-14/107
	37849	R590-247	AMD	09/10/2013	2013-15/110
<u>universal service fund</u>					
Public Service Commission, Administration	38136	R746-360	5YR	11/13/2013	2013-23/67
<u>uranium mills</u>					
Environmental Quality, Radiation Control	37196	R313-24	AMD	03/19/2013	2013-3/74
<u>USTAR</u>					
Education, Administration	37888	R277-492	5YR	08/02/2013	2013-17/47
	37926	R277-492	AMD	10/08/2013	2013-17/17
Science Technology and Research Governing Auth., Administration	37963	R856-1	NSC	09/30/2013	Not Printed
	37964	R856-2	NSC	09/30/2013	Not Printed
<u>Utah resident temporarily out-of-state</u>					
Public Safety, Driver License	37657	R708-45	EMR	05/23/2013	2013-12/45
	37718	R708-45	R&R	08/08/2013	2013-13/202
<u>utilities</u>					
Transportation, Preconstruction	37957	R930-7-5	NSC	09/13/2013	Not Printed
	37995	R930-7-13	AMD	11/07/2013	2013-19/132
<u>utility accommodation</u>					
Transportation, Preconstruction	37957	R930-7-5	NSC	09/13/2013	Not Printed
	37995	R930-7-13	AMD	11/07/2013	2013-19/132
<u>utility regulations</u>					
Public Service Commission, Administration	37450	R746-405	5YR	03/28/2013	2013-8/69
	37447	R746-405	AMD	06/20/2013	2013-8/38
	37908	R746-405-2	AMD	11/07/2013	2013-17/37
<u>utility service shutoff</u>					
Public Service Commission, Administration	37508	R746-200	AMD	11/01/2013	2013-9/18
	37508	R746-200	CPR	11/01/2013	2013-16/55
	37932	R746-200-7	NSC	11/01/2013	Not Printed
	37041	R746-320	AMD	01/07/2013	2012-23/48
<u>vacations</u>					
Human Resource Management, Administration	37566	R477-7	AMD	07/01/2013	2013-10/163
<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>ventilation</u>					
Health, Disease Control and Prevention, Environmental Services	38080	R392-510	NSC	11/11/2013	Not Printed
	37454	R392-510-6	AMD	07/01/2013	2013-8/8

<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	
	37380	R270-1	AMD	04/22/2013	2013-6/25	
<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	
	37380	R270-1	AMD	04/22/2013	2013-6/25	
<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	
	37453	R384-201	AMD	07/01/2013	2013-8/6	
<u>visitors</u>						
Human Services, Substance Abuse and Mental Health, State Hospital	37210	R525-4	5YR	01/23/2013	2013-4/57	
	37969	R525-4	AMD	11/07/2013	2013-19/69	
<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	
	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	
	38015	R307-351-2	NSC	10/08/2013	Not Printed	
	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	2013-9/34	
	37512	R280-200	AMD	06/07/2013	2013-9/12	

RULES INDEX

volunteers

Human Resource Management, Administration	37572	R477-13	AMD	07/01/2013	2013-10/177
Transportation, Operations, Maintenance	37874	R918-4	5YR	08/01/2013	2013-16/70

wages

Workforce Services, Unemployment Insurance	37544	R994-208	5YR	04/25/2013	2013-10/219
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waivers

Labor Commission, Industrial Accidents	37127	R612-400	NEW	02/25/2013	2013-2/76
	38072	R612-400-5	AMD	12/23/2013	2013-22/146

warrants

Pardons (Board Of), Administration	37343	R671-510	5YR	02/15/2013	2013-5/212
	37457	R671-510	AMD	05/22/2013	2013-8/26
	37344	R671-512	5YR	02/15/2013	2013-5/213
	37458	R671-512	AMD	05/22/2013	2013-8/27
	37346	R671-513	5YR	02/15/2013	2013-5/214
	37459	R671-513	AMD	05/22/2013	2013-8/28

waste disposal

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
	37322	R315-301	AMD	04/25/2013	2013-5/116
	37283	R315-302	5YR	02/13/2013	2013-5/198
	37323	R315-302	AMD	04/25/2013	2013-5/122
	37284	R315-303	5YR	02/13/2013	2013-5/199
	37324	R315-303	AMD	04/25/2013	2013-5/127
	37285	R315-304	5YR	02/13/2013	2013-5/200
	37325	R315-304	AMD	04/25/2013	2013-5/132
	37286	R315-305	5YR	02/13/2013	2013-5/200
	37326	R315-305	AMD	04/25/2013	2013-5/134
	37287	R315-306	5YR	02/13/2013	2013-5/201
	37327	R315-306	AMD	04/25/2013	2013-5/136
	37288	R315-307	5YR	02/13/2013	2013-5/201
	37328	R315-307-3	AMD	04/25/2013	2013-5/138
	37289	R315-308	5YR	02/13/2013	2013-5/202
	37329	R315-308	AMD	04/25/2013	2013-5/139
	37290	R315-309	5YR	02/13/2013	2013-5/202
	37330	R315-309	AMD	04/25/2013	2013-5/144
	37291	R315-310	5YR	02/13/2013	2013-5/203
	37331	R315-310	AMD	04/25/2013	2013-5/151
	37292	R315-311	5YR	02/13/2013	2013-5/204
	37332	R315-311	AMD	04/25/2013	2013-5/155
	37293	R315-312	5YR	02/13/2013	2013-5/204
	37333	R315-312	AMD	04/25/2013	2013-5/157
	37295	R315-314	5YR	02/13/2013	2013-5/205
	37335	R315-314	AMD	04/25/2013	2013-5/160
	37296	R315-315	5YR	02/13/2013	2013-5/206
	37336	R315-315	AMD	04/25/2013	2013-5/163
	37297	R315-316	5YR	02/13/2013	2013-5/206
	37337	R315-316	AMD	04/25/2013	2013-5/165
	37298	R315-317	5YR	02/13/2013	2013-5/207
	37338	R315-317	AMD	04/25/2013	2013-5/167
	37480	R315-317	NSC	04/29/2013	Not Printed
	37299	R315-318	5YR	02/13/2013	2013-5/208
	37339	R315-318	AMD	04/25/2013	2013-5/168
	37300	R315-320	5YR	02/13/2013	2013-5/208
	37340	R315-320	AMD	04/25/2013	2013-5/169
Environmental Quality, Water Quality	37851	R317-1	AMD	09/24/2013	2013-15/41
	37366	R317-1-1	AMD	08/19/2013	2013-6/32
	37366	R317-1-1	CPR	08/19/2013	2013-14/92
	37240	R317-13	5YR	01/31/2013	2013-4/51
	38065	R317-13	NSC	11/04/2013	Not Printed

waste to energy plant

Environmental Quality, Air Quality	37255	R307-223	5YR	02/06/2013	2013-5/195
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<u>waste water</u>					
Environmental Quality, Water Quality	37812	R317-11	AMD	09/01/2013	2013-14/54
<u>wastewater</u>					
Environmental Quality, Water Quality	37852	R317-3	AMD	09/24/2013	2013-15/45
	37575	R317-4	R&R	09/01/2013	2013-10/27
	37241	R317-14	5YR	01/31/2013	2013-4/52
	38066	R317-14	NSC	11/04/2013	Not Printed
	37448	R317-101	5YR	03/28/2013	2013-8/54
	37857	R317-401	AMD	09/24/2013	2013-15/108
<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 conservation</u>					
Environmental Quality, Drinking Water	37724	R309-510	AMD	08/28/2013	2013-13/77
<u>water hauling</u>					
Environmental Quality, Drinking Water	37733	R309-550	NSC	07/09/2013	Not Printed
<u>water pollution</u>					
Environmental Quality, Water Quality	37851	R317-1	AMD	09/24/2013	2013-15/41
	37366	R317-1-1	AMD	08/19/2013	2013-6/32
	37366	R317-1-1	CPR	08/19/2013	2013-14/92
	37361	R317-2	AMD	08/19/2013	2013-6/34
	37361	R317-2	CPR	08/19/2013	2013-14/94
	37852	R317-3	AMD	09/24/2013	2013-15/45
	37853	R317-5	AMD	09/24/2013	2013-15/80
	37581	R317-8	AMD	07/01/2013	2013-10/59
	37856	R317-12	AMD	09/24/2013	2013-15/107
	37240	R317-13	5YR	01/31/2013	2013-4/51
	38065	R317-13	NSC	11/04/2013	Not Printed
<u>water quality</u>					
Environmental Quality, Drinking Water	37787	R309-225	NSC	07/19/2013	Not Printed
Environmental Quality, Water Quality	37852	R317-3	AMD	09/24/2013	2013-15/45
	37854	R317-6	AMD	09/24/2013	2013-15/85
	37961	R317-6-6	AMD	10/24/2013	2013-18/26
	37855	R317-7	AMD	09/24/2013	2013-15/96
	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 Quality Certification</u>					
Environmental Quality, Water Quality	37362	R317-15	NEW	08/19/2013	2013-6/44
	37362	R317-15	CPR	08/19/2013	2013-14/101
<u>water quality standards</u>					
Environmental Quality, Water Quality	37361	R317-2	AMD	08/19/2013	2013-6/34
	37361	R317-2	CPR	08/19/2013	2013-14/94
<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>water system rating</u>					
Environmental Quality, Drinking Water	37796	R309-400	AMD	10/12/2013	2013-14/45
<u>waterfowl</u>					
Natural Resources, Wildlife Resources	37982	R657-9	AMD	11/07/2013	2013-19/88

RULES INDEX

watershed management

Environmental Quality, Drinking Water 37795 R309-105 AMD 10/12/2013 2013-14/39

weapons

Human Services, Substance Abuse and Mental Health, State Hospital 37212 R525-6 5YR 01/23/2013 2013-4/58
 37971 R525-6 NSC 09/30/2013 Not Printed

weed control

Agriculture and Food, Plant Industry 37700 R68-9 5YR 06/06/2013 2013-13/229

well logging

Environmental Quality, Radiation Control 37187 R313-38 NSC 01/31/2013 Not Printed
 38043 R313-38 5YR 10/07/2013 2013-21/72

white-collar contests

Governor, Economic Development, Pete Suazo Utah Athletic Commission 37672 R359-1 AMD 09/13/2013 2013-12/21

wildlife

Natural Resources, Wildlife Resources 37384 R657-3 5YR 03/05/2013 2013-7/67
 37982 R657-9 AMD 11/07/2013 2013-19/88
 37978 R657-10 AMD 11/07/2013 2013-19/90
 37977 R657-11 AMD 11/07/2013 2013-19/91
 37225 R657-12 AMD 04/23/2013 2013-4/24
 37069 R657-13 AMD 01/22/2013 2012-24/29
 37893 R657-19 5YR 08/05/2013 2013-17/58
 37233 R657-20 AMD 04/23/2013 2013-4/26
 37534 R657-20 NSC 05/17/2013 Not Printed
 37592 R657-34 5YR 05/06/2013 2013-11/103
 37097 R657-37 AMD 02/07/2013 2013-1/11
 37593 R657-37 5YR 05/06/2013 2013-11/104
 37594 R657-42 5YR 05/06/2013 2013-11/104
 37643 R657-44 AMD 07/22/2013 2013-12/31
 37980 R657-52 AMD 11/07/2013 2013-19/93
 37667 R657-53 5YR 05/30/2013 2013-12/57
 37894 R657-57 5YR 08/05/2013 2013-17/58
 37203 R657-58 5YR 01/15/2013 2013-3/114
 37895 R657-59 5YR 08/05/2013 2013-17/59
 37896 R657-60 5YR 08/05/2013 2013-17/59
 37981 R657-60 AMD 11/07/2013 2013-19/96
 38148 R657-61 5YR 11/18/2013 2013-24/47
 37609 R657-64 AMD 07/08/2013 2013-11/48
 37716 R657-65 NEW 08/08/2013 2013-13/195
 37979 R657-66 NEW 11/07/2013 2013-19/98

wildlife law

Natural Resources, Wildlife Resources 37977 R657-11 AMD 11/07/2013 2013-19/91
 37225 R657-12 AMD 04/23/2013 2013-4/24
 37069 R657-13 AMD 01/22/2013 2012-24/29
 37203 R657-58 5YR 01/15/2013 2013-3/114
 37896 R657-60 5YR 08/05/2013 2013-17/59
 37981 R657-60 AMD 11/07/2013 2013-19/96
 37609 R657-64 AMD 07/08/2013 2013-11/48

wood furniture

Environmental Quality, Air Quality 36738 R307-343 AMD 05/01/2013 2012-19/56
 36738 R307-343 CPR 05/01/2013 2013-1/49
 36738 R307-343 CPR 05/01/2013 2013-7/44

workers' compensation

Labor Commission, Adjudication 38115 R602-4 5YR 11/08/2013 2013-23/64
 38112 R602-5 5YR 11/08/2013 2013-23/65
 38143 R602-5 NSC 12/12/2013 Not Printed
 38108 R602-6 5YR 11/08/2013 2013-23/65
 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
	37125	R612-200	NEW	02/25/2013	2013-2/62
	37622	R612-200-1	AMD	07/08/2013	2013-11/34
	37126	R612-300	NEW	02/25/2013	2013-2/66
	38036	R612-300	R&R	11/22/2013	2013-20/26
	37127	R612-400	NEW	02/25/2013	2013-2/76
	38072	R612-400-5	AMD	12/23/2013	2013-22/146
	37128	R612-500	NEW	02/25/2013	2013-2/79
<u>Workforce Investment Act</u>					
Workforce Services, Employment Development	37878	R986-600	AMD	10/07/2013	2013-16/40
<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
	37867	R313-28-80	AMD	10/15/2013	2013-16/6
	37197	R313-30	AMD	03/19/2013	2013-3/76
	38040	R313-30	5YR	10/04/2013	2013-21/72
	37198	R313-35	AMD	03/19/2013	2013-3/91
	37188	R313-70	NSC	01/31/2013	Not Printed
<u>youth protection</u>					
Education, Administration	37634	R277-411	NEW	07/08/2013	2013-11/16
<u>zoological animals</u>					
Natural Resources, Wildlife Resources	37384	R657-3	5YR	03/05/2013	2013-7/67
	37980	R657-52	AMD	11/07/2013	2013-19/93