

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed November 15, 2014, 12:00 a.m. through December 01, 2014, 11:59 p.m.

Number 2014-24
December 15, 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

85-643197

TABLE OF CONTENTS

SPECIAL NOTICES	1
Health	
Health Care Financing, Coverage and Reimbursement Policy	
Medicaid Affordable Care Act Enhanced Rates Expire for Services Furnished by Certain	
Primary Care Physicians.....	1
Notice for January 2015 Medicaid Rate Changes.....	1
Telehealth Services.....	1
NOTICES OF PROPOSED RULES	3
Administrative Services	
Purchasing and General Services	
No. 38974 (Amendment): R33-1-1 Definitions.....	4
No. 38975 (Amendment): R33-6-101 Competitive Sealed Bidding; Multiple Stage Bidding;	
Reverse Auction.....	5
No. 38976 (Amendment): R33-7 Request for Proposals.....	6
No. 38977 (Amendment): R33-12 Terms and Conditions, Contracts, Change Orders and	
Costs.....	9
No. 38978 (Amendment): R33-16-401 Protest Officer May Correct Noncompliance, Errors	
and Discrepancies.....	12
Commerce	
Occupational and Professional Licensing	
No. 38981 (Amendment): R156-31b-202 Advisory Peer Education Committee Created --	
Membership - Duties.....	13
No. 38980 (Amendment): R156-31b-609 Standards for Out-of-State Programs Providing	
Clinical Experiences in Utah.....	14
No. 38979 (Amendment): R156-60a Social Worker Licensing Act Rule.....	15
No. 38964 (Amendment): R156-60d Substance Use Disorder Counselor Act Rule.....	17
No. 38957 (Amendment): R156-61 Psychologist Licensing Act Rule.....	19
No. 38963 (Amendment): R156-73 Chiropractic Physician Practice Act Rule.....	24
Real Estate	
No. 38971 (Amendment): R162-2e-401 Unprofessional Conduct.....	26
No. 38972 (Amendment): R162-2f-206 Certification of Continuing Education Course.....	28
Health	
Children's Health Insurance Program	
No. 38973 (Amendment): R382-10-18 Enrollment Period.....	31
Health Care Financing, Coverage and Reimbursement Policy	
No. 38984 (Amendment): R414-310-7 Household Composition and Income Provisions.....	32
Family Health and Preparedness, Licensing	
No. 38982 (Amendment): R432-2-6 Application.....	33
Natural Resources	
Parks and Recreation	
No. 38970 (Amendment): R651-214 Temporary Registration.....	34
Public Safety	
Peace Officer Standards and Training	
No. 38983 (New Rule): R728-506 Canine Body Armor Restricted Account.....	36
NOTICES OF CHANGES IN PROPOSED RULES	39
Environmental Quality	
Radiation Control	
No. 38770: R313-17-4 Special Procedures for Decisions Associated with Licenses for	
Uranium Mills and Disposal of Byproduct Material.....	40

TABLE OF CONTENTS

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION.....43

- Environmental Quality
 - Solid and Hazardous Waste
 - No. 38961: R315-16 Standards for Universal Waste Management.....43
 - No. 38960: R315-102 Penalty Policy.....43
- Insurance
 - Administration
 - No. 38966: R590-196 Bail Bond Surety Fee Standards, Collateral Standards and Disclosure Form.....44
 - No. 38967: R590-197 Treatment of Guaranty Association Assessments as Qualified Assets.....45
 - No. 38968: R590-198 Valuation of Life Insurance Policies Rule.....45
 - No. 38969: R590-232 Authorization for a Health Maintenance Organization to Provide Services as Third Party Administrator of Health Care Benefits.....46
 - Workforce Services
 - Unemployment Insurance
 - No. 38965: R994-305 Collection of Contributions.....46

NOTICES FIVE-YEAR REVIEW EXTENSION.....49

- Education
 - Administration
 - No. 38962: R277-111 Sharing of Curriculum Materials by Public School Educators.....49

NOTICES OF RULE EFFECTIVE DATES.....51

RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT).....55

SPECIAL NOTICES

Health Health Care Financing, Coverage and Reimbursement Policy

Medicaid Affordable Care Act Enhanced Rates Expire for Services Furnished by Certain Primary Care Physicians

The Division of Medicaid and Health Financing's enhanced rates for services furnished by certain primary care physicians authorized by the Affordable Care Act (ACA) does not apply to services rendered on or after January 1, 2015. ACA allowed for enhanced rates up to the Medicare physician fee schedule for services rendered in calendar years 2013 and 2014. If claims are submitted timely, enhanced payments for services will continue for all covered services rendered during calendar years 2013 and 2014.

For more information on the enhanced rates, please refer to CMS-2370-F as published in the Federal Register on November 6, 2012.

Questions or comments may be sent to the Reimbursement Unit, Utah Department of Health, P.O. Box 143102, Salt Lake City, UT 84114-3102.

Health Health Care Financing, Coverage and Reimbursement Policy

Notice for January 2015 Medicaid Rate Changes

Effective January 1, 2015, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies, potential adjustments to existing codes, and nursing home rate changes to case mix components consistent with adopted payment methodology. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/bcrp.htm>.

Health Health Care Financing, Coverage and Reimbursement Policy

Telehealth Services

The Division of Medicaid and Health Financing (DMHF) will submit a State Plan Amendment (SPA 14-0037-UT Telehealth Services) to remove all provisions of coverage and reimbursement for telehealth services in the Utah Medicaid State Plan.

DMHF will remove these provisions based on guidance from the Centers for Medicare and Medicaid Services (CMS), which allows states the option to not specify coverage of telehealth in their State Plans because it is not a distinct service but rather a method of service delivery.

This amendment does not affect total annual expenditures for the Medicaid program.

This amendment is pending CMS approval and the proposed effective date is January 1, 2015.

A copy of the change may be obtained from Craig Devashrayee (801-538-6641), or by writing the Technical Writing Unit, Utah Department of Health, P.O. Box 143102, Salt Lake City, UT 84114-3102. Comments are welcome at the same address. Copies of the change are also available at local county health department offices.

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 November 15, 2014, 12:00 a.m., and December 01, 2014, 11:59 p.m. are included in this, the December 15, 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 14, 2015. 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 April 14, 2015, the agency may notify the Division of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OR A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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, Purchasing and General Services

R33-1-1 Definitions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38974

FILED: 11/24/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add new definitions and update the numbering of the definitions.

SUMMARY OF THE RULE OR CHANGE: This change is to include a "Favorite Vendor" definition.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. This change simply adds terms and renumbers terms used in the procurement rules that are defined in Sections 63G-6a-103 and 63G-6a-104.

◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. This change simply adds terms and renumbers terms used in the procurement rules that are defined in Sections 63G-6a-103 and 63G-6a-104.

◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small business. This change simply adds terms and renumbers terms used in the procurement rules that are defined in Sections 63G-6a-103 and 63G-6a-104.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to small businesses, businesses, or local government entities. This change simply adds terms and renumbers terms used in the procurement rules that are defined in Sections 63G-6a-103 and 63G-6a-104.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no anticipated cost for affected persons. This change simply adds terms and renumbers terms used in the procurement rules that are defined in Sections 63G-6a-103 and 63G-6a-104.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These amendments have no fiscal impact of businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2015

AUTHORIZED BY: Kent Beers, Director

R33. Administrative Services, Purchasing and General Services. R33-1. Utah Procurement Rules, "General Procurement Provisions," Definitions.

R33-1-1. Definitions.

(A) Terms used in the procurement rules are defined in Sections 63G-6a-103 and 104.

(B) In addition:

(1) "Actual Costs" means direct and indirect costs which have been incurred for services rendered, supplies delivered, or construction built, as distinguished from allowable costs.

(2) "Adequate Price" Competition means:

(a) when a minimum of two competitive bids, proposals, or quotes are received from responsive bidders or offerors.

(3) "Acquiring Agency" is a conducting procurement unit subject to Section 63F-1-205 acquiring new technology or technology as therein defined.

(4) "Bid Bond" is an insurance agreement, accompanied by a monetary commitment, by which a third party (the Surety) accepts liability and guarantees that the bidder will not withdraw the bid. The bidder will furnish bonds in the required amount and if the contract is awarded to the bonded bidder, the bidder will accept the contract as bid, or else the surety will pay a specific amount.

(5) "Bid Rigging" means agreement among potential competitors to manipulate the competitive bidding process, for example, by agreeing not to bid, to bid a specific price, to rotate bidding, or to give kickbacks.

(6) "Bid Security" means the deposit of cash, certified check, cashier's check, bank draft, money order, or bid bond submitted with a bid and serving to guarantee to the owner that the bidder, if awarded the contract, will execute such contract in accordance with the bidding requirements and the contract documents.

(7) "Brand Name or Equal Specification" means a specification which uses a brand name specification to describe the standard of quality, performance, and other characteristics being solicited, and which invites the submission of equivalent products.

(8) "Brand Name Specification" means a specification identifying one or more products by manufacturer name, product name, unique product identification number, product description, SKU or catalogue number.

(9) "Collusion" means when two or more persons act together to achieve a fraudulent or unlawful act. Collusion inhibits free and open competition in violation of law.

(10) "Cost Analysis" means the evaluation of cost data for the purpose of arriving at estimates of costs to be incurred, prices to be paid, costs to be reimbursed, or costs actually incurred.

(11) "Cost Data" means factual information concerning the cost of labor, material, overhead, and other cost elements which are expected to be incurred or which have been actually incurred by the contractor in performing the contract.

(12) "Cronyism" is an anticompetitive practice that may violate federal and state antitrust and procurement laws. Cronyism in government contracting is a form of favoritism where contracts are awarded on the basis of friendships, associations or political connections instead of fair and open competition.

(13) "Favored vendor" means, as it relates to this administrative rule, a situation wherein a procurement officer, evaluation committee member, contract administrator, or public employee unfairly, by means of deceit or in violation of law, favor one vendor over another vendor(s) in the process of awarding a public contract. Examples of ways in which public contracts are improperly steered to a "favored vendor" include, but are not limited to:

(a) Collusion or manipulation of the procurement to steer a contract award to a particular vendor;

(b) Illegal bribes or kickbacks paid by a vendor in exchange for a contract award;

(c) Unjustified sole source contract awards to a vendor;

(d) Bid rigging schemes;

(e) Writing specifications that are overly restrictive or in a way that gives an unfair advantage to a particular vendor;

(f) Improperly splitting purchases to avoid the standard competitive procurement process;

(g) Leaking bid or proposal information to a particular vendor at the exclusion of other vendors; or

(h) Not following established policies and procedures when approving changes orders.

~~(13)~~(14) "Mandatory Requirement" means a condition set out in the specifications/statement of work that must be met without exception.

~~(14)~~(15) "Minor Irregularity" is a variation from the solicitation that does not affect the price of the bid, offer, or contract or does not give a bidder/offeror an advantage or benefit not shared by other bidders/offerors, or does not adversely impact the interests of the procurement unit.

~~(15)~~(16) "New Technology" means any invention, discovery, improvement, or innovation, that was not available to the acquiring agency on the effective date of the contract, whether or not patentable, including, but not limited to, new processes, emerging technology, machines, and improvements to, or new applications of, existing processes, machines, manufactures and software. Also included are new computer programs, and improvements to, or new applications of, existing computer programs, whether or not copyrightable and any new process, machine, including software, and improvements to, or new applications of, existing processes, machines, manufactures and software.

~~(16)~~(17) "Participating Addendum" means an agreement issued in conjunction with a Cooperative Contract that authorizes a public entity to use the Cooperative Contract.

~~(17)~~(18) "Payment Bond" is a bond that guarantees payment for labor and materials expended on the contract.

~~(18)~~(19) "Price Analysis" means the evaluation of price data without analysis of the separate cost components and profit.

~~(19)~~(20) "Price Data" means factual information concerning prices for procurement items.

~~(20)~~(21) "Section and Subsection" refers to the Utah Code.

~~(21)~~(22) "Surety bond" (performance bond) means a promise to pay one the obligee (owner) a certain amount if the principal (contractor) fails to meet some obligation, such as fulfilling the terms of a contract. The surety bond protects the obligee (owner) against losses resulting from the principal's failure to meet the obligation. In the event that the obligations are not met, the obligee (owner), will recover its losses via the bond.

~~(22)~~(23) "Technology" means any type of technology defined in Section 63F-1-102(8).

KEY: government purchasing, Utah procurement rules, general procurement provisions, definitions

Date of Enactment or Last Substantive Amendment: ~~July 8, 2014~~2015

Notice of Continuation: July 8, 2014

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

Administrative Services, Purchasing and General Services **R33-6-101** Competitive Sealed Bidding; Multiple Stage Bidding; Reverse Auction

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38975

FILED: 11/24/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to continue the update of the rule.

SUMMARY OF THE RULE OR CHANGE: The changes update the Evaluation Committee procedures for scoring criteria other than cost.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no impact to budgets. This change is simply updating procedures the Evaluation Committee must follow within the procurement process.

- ◆ LOCAL GOVERNMENTS: There is no impact to budgets. This change is simply updating procedures the Evaluation Committee must follow within the procurement process.
- ◆ SMALL BUSINESSES: There is no impact to budgets. This change is simply updating procedures the Evaluation Committee must follow within the procurement process.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no impact to persons. This change is simply updating procedures the Evaluation Committee must follow within the procurement process.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no impact for compliance costs. This change is simply updating procedures the Evaluation Committee must follow within the procurement process.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These amendments have no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ADMINISTRATIVE SERVICES
 PURCHASING AND GENERAL SERVICES
 ROOM 3150 STATE OFFICE BLDG
 450 N STATE ST
 SALT LAKE CITY, UT 84114-1201
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2015

AUTHORIZED BY: Kent Beers, Director

R33. Administrative Services, Purchasing and General Services.

R33-6. Bidding.

R33-6-101. Competitive Sealed Bidding; Multiple Stage Bidding; Reverse Auction.

(1) Competitive Sealed Bidding shall be conducted in accordance with the requirements set forth in Sections 63G-6a-601 through 63G-6a-612. All definitions in the Utah Procurement Code shall apply to this Rule unless otherwise specified in this Rule. This administrative rule provides additional requirements and procedures and must be used in conjunction with the Procurement Code.

(2) The conducting procurement unit is responsible for all content contained in the competitive sealed bidding, multiple stage bidding, and reverse auction solicitation documents, including:

- (a) reviewing all schedules, dates, and timeframes;
- (b) approving content of attachments;

(c) providing the issuing procurement unit with redacted documents, as applicable;

(d) assuring that information contained in the solicitation documents is public information; and

(e) understanding the description of the procurement item(s) being sought, all criteria, requirements, factors, and formulas to be used for determining the lowest responsible and responsive bidder.

(3)(a) The award of a contract shall be to the lowest responsive and responsible bidder who meets the objective criteria described in the invitation for bids.

(b) Bids shall be based on the lowest bid for the entire term of the contract, excluding renewal periods.

(c) Unless an exception is authorized in writing by the chief procurement officer or head of a procurement unit with independent procurement authority, cost may not be divided or evaluated on any other basis than the entire term of the contract, excluding renewal periods.

KEY: government purchasing, sealed bidding, multiple stage bidding, reverse auction

Date of Enactment or Last Substantive Amendment: [~~October 8, 2014~~2015

Notice of Continuation: July 8, 2014

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

Administrative Services, Purchasing and General Services **R33-7** Request for Proposals

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 38976

FILED: 11/24/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to continue the update of this rule.

SUMMARY OF THE RULE OR CHANGE: The changes add criteria for a the evaluation of proposals.

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

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There is no anticipated affect. This is simply adding to criteria of how an evaluation team is to evaluate a proposal.

◆ LOCAL GOVERNMENTS: There is no anticipated affect. This is simply adding to criteria of how an evaluation team is to evaluate a proposal.

♦ **SMALL BUSINESSES:** There is no anticipated affect. This is simply adding to criteria of how an evaluation team is to evaluate a proposal.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated affect. This is simply adding to criteria of how an evaluation team is to evaluate a proposal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs. This is simply adding to criteria of how an evaluation team is to evaluate a proposal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule addition does not have a fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ADMINISTRATIVE SERVICES
 PURCHASING AND GENERAL SERVICES
 ROOM 3150 STATE OFFICE BLDG
 450 N STATE ST
 SALT LAKE CITY, UT 84114-1201
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2015

AUTHORIZED BY: Kent Beers, Director

R33. Administrative Services, Purchasing and General Services.

R33-7. Request for Proposals.

R33-7-501. Evaluation of Proposals.

(1) The evaluation of proposals shall be conducted in accordance with Part 7 of the Utah Procurement Code.

(2) An evaluation committee may ask questions of offerors to clarify proposals provided the questions are submitted and answered in writing. The record of questions and answers shall be maintained in the file.

(3)(a) The evaluation of cost in an RFP shall be based on the entire term of the contract, excluding renewal periods.

(b) Unless an exception is authorized in writing by the chief procurement officer or head of a procurement unit with independent procurement authority, cost should not be divided or evaluated on any other basis than the entire term of the contract, excluding renewal periods.

(c) Whenever practicable, the evaluation of cost should include maintenance and service agreements, system upgrades, apparatuses, and other components associated with the procurement item.

R33-7-501a. Minimum Score Thresholds.

(1) An executive branch conducting procurement unit shall establish minimum score thresholds to advance proposals from one stage in the RFP process to the next, including contract award.

(2) Minimum score thresholds must be set forth in the RFP and clearly describe the minimum score threshold that proposals must achieve in order to advance to the next stage in the RFP process or to be awarded a contract.

(3)(a) Thresholds may be based on:

(i) Minimum scores for each evaluation category;

(ii) The total of each minimum score in each evaluation category based on the total points available; or

(iii) A combination of (i) and (ii).

(b) Thresholds may not be based on:

(i) A natural break in scores that was not defined and set forth in the RFP; or

(ii) A predetermined number of offerors.

R33-7-701a. Cost-Benefit Analysis.

(1) A cost-benefit analysis conducted under Utah Code 63G-6a-708 shall be based on the entire term of the contract, excluding any renewal periods.

R33-7-703. Evaluation Committee Procedures for Scoring Criteria Other Than Cost.

(1)(a) In accordance with Utah Code 63G-6a-704, the conducting procurement unit shall conduct an initial review of any applicable pass/fail minimum requirements set forth in the RFP to determine whether proposals are responsive and responsible or in violation of the Utah Procurement Code prior to submitting proposals to the evaluation committee. Examples of pass/fail minimum requirements include:

(i) Timeliness of receipt of proposals

(ii) Qualifications;

(iii) Certifications;

(iv) Licensing;

(v) Experience;

(vi) Compliance with State or Federal regulations;

(vii) Services provided;

(viii) Product availability;

(ix) Equipment;

(x) Other pass/fail minimum requirements set forth in the RFP.

(b) The evaluation committee may not evaluate proposals deemed non-responsive, nonresponsible or disqualified for violations of the Utah Procurement Code under (1)(a).

(c) In accordance with Utah Code 63G-6a-704, an evaluation committee may, after the initial pass/fail review by the conducting procurement unit or at any time during the RFP process, reject a proposal if it is determined that the person submitting the proposal is not responsible or the proposal is not responsive.

(2) In accordance with Utah Code 63G-6a-707, the evaluation committee shall evaluate each responsive and responsible proposal that has not been disqualified from consideration under the provisions of this chapter, using the criteria described in the request for proposals using the following procedures:

(a) Prior to the scoring of proposals, a procurement officer from the issuing procurement unit will meet with the

evaluation committee and any staff that will have access to the proposals to:

(i) discuss the evaluation and scoring process to ensure that each committee member has a clear understanding of the scoring process and how points will be assigned;

(ii) discuss requirements regarding conflicts of interests, the appearance of impropriety, and the importance of confidentiality;

(iv) discuss the scoring sheet and evaluation criteria set forth in the RFP; and

(v) provide a copy of Administrative Rule R33-7-703 to the evaluation committee and any staff that will have access to the proposals.

(b) Once the proposals have been received and it is clear which offerors are involved in the RFP process, all members of the evaluation committee must sign a written statement certifying that they do not have a conflict of interest as set forth in Utah Code 63G-6a-707 and administrative rule R33-24-107

(3) Unless an exception is authorized by the head of the issuing procurement unit, in order to avoid cost influencing the evaluation committee's scoring of non-price criteria, in accordance with Utah Code 63G-6a-707, costs may not be revealed to the evaluation committee until after the committee has finalized its scoring on all other technical non-price criteria in the RFP.

(4) After receipt of proposals, each committee member shall independently, as described in R33-7-705, read and score each proposal based on the technical non-price criteria set forth in the RFP to assess the completeness, quality, and desirability of each proposal.

(a) proposals must be evaluated solely on the stated criteria listed in the RFP.

(i) past performance ratings and references may be considered if listed as evaluation criteria in the RFP;

(ii) personal bias based on prior experience with a procurement item or the offeror cannot be considered in scoring proposals, except as provided in the RFP;

(iii) personal favoritism for a vendor or bias against a vendor cannot be considered in scoring proposals; and

(iv) subsections (ii) and (iii) shall not be construed to prevent a committee member from having a bias based on their review of a proposal in regard to the criteria in the solicitation. Evaluators are encouraged to request technical support from the conducting procurement unit or the issuing procurement unit when conducting their independent assessments and scoring.

(a) any request for technical support shall be submitted in writing to the conducting procurement unit or the issuing procurement unit.

(b) After the proposals have been evaluated and scored by individual committee members, the entire committee shall meet to discuss the proposals, if applicable conduct interviews, resolve any factual disagreements, and arrive at the final scoring. All committee members must be present to take any official action.

(i) If a committee member does not attend an evaluation committee meeting, the member shall be removed from the evaluation committee and the remainder of the committee may proceed with the evaluation, provided there are at least three evaluation committee members remaining.

(c) During committee discussions, each member may change their initial scoring. If additional information or

clarification is needed from an offeror, the committee may, with approval by the issuing procurement unit, request information or clarification from an offeror. Such request will only be approved if it can be done in a manner that is fair to all offerors.

(d) At any time during the evaluation process, the evaluation committee may, with the approval of the issuing procurement unit, request best and final offers from responsible and responsive offerors and evaluate those offers in accordance with Utah Code 63G-6a-708 and Administrative Rule R33-7-601.

(e) Each evaluation committee member shall turn in a completed scoring sheet, signed and dated by the evaluation committee member.

(5) The evaluation committee may tally the final scores for criteria other than cost to arrive at a consensus score by the following methods:

(a) total of all of the points given by individual committee members; or

(b) an average of the individual scores.

(6) The evaluation shall submit its final recommended scores for all criteria other than cost to the issuing procurement unit.

(7) The issuing procurement unit shall follow the procedures set forth in Utah Code 63G-6a-707(5) pertaining to the following:

(a) reviewing the evaluation committee's final recommended scores for each proposal for all criteria other than cost;

(b) scoring cost based on the applicable scoring formula; and

(c) calculating the total combined score for each responsive and responsible proposal.

(8) The evaluation committee and the conducting procurement unit shall prepare the cost justification statement and any applicable cost-benefit analysis in accordance with Utah Code 63G-6a-708.

(9) The issuing procurement unit's role as a non-voting member of the evaluation committee will be to facilitate the evaluation process within the guidelines of the Utah procurement code and administrative rule.

(10) The issuing procurement unit may replace any member on the committee or reconstitute the committee in any way the issuing procurement unit deems appropriate to cure any impropriety. If the impropriety cannot be cured by replacing a member, then a new committee may be appointed or the procurement cancelled.

R33-7-704. Scoring of Evaluation Criteria, Other Than Cost, for Proposals Meeting Mandatory Minimum Requirements.

(1) The scoring of evaluation criteria, other than cost, for proposals meeting the mandatory minimum requirements in an RFP shall be based on a one through five point scoring system.

(2) Points shall be awarded to each applicable evaluation category as set forth in the RFP, including but not limited to:

(a) Technical specifications;

(b) Qualifications and experience;

(c) Programming;

(d) Design;

(e) Time, manner, or schedule of delivery;

(f) Quality or suitability for a particular purpose;

(g) Financial solvency;

- (h) Management and methodological plan; and
- (i) Other requirements specified in the RFP.
- (3) Scoring Methodology:
 - (a) Five points (Excellent): The proposal addresses and exceeds all of the requirements described in the RFP.
 - (b) Four points (Very Good): The proposal addresses all of the requirements described in the RFP and, in some respects, exceeds them;
 - (c) Three points (Good): The proposal addresses all of the requirements described in the RFP in a satisfactory manner;
 - (d) Two points (Fair): The proposal addresses the requirements described in the RFP in an unsatisfactory manner; or
 - (e) One point (Poor): The proposal fails to address the requirements described in the RFP or it addresses the requirements inaccurately or poorly.

R33-7-705. Evaluation Committee Members Required to Exercise Independent Judgment.

- (1)(a) Evaluators are required to exercise independent judgment in a manner that is not dependent on anyone else's opinions or wishes.
- (b) Evaluators must not allow their scoring to be inappropriately influenced by another person's wishes that additional or fewer points be awarded to a particular offeror.
- (c) Evaluators may seek to increase their knowledge before scoring by asking questions and seeking appropriate information from the conducting procurement unit or issuing procurement unit. Otherwise, evaluators should not discuss proposals or the scoring of proposals with other persons not on the evaluation committee.
- (2)(a) The exercise of independent judgment applies not only to possible inappropriate influences from outside the evaluation committee, but also to inappropriate influences from within the committee. It is acceptable for there to be discussion and debate within the committee regarding how well a proposal meets the evaluation criteria. However, open discussion and debate may not lead to coercion or intimidation on the part of one committee member to influence the scoring of another committee member.
- (b) Evaluators may not act on their own or in concert with another evaluation committee member to inappropriately steer an award to a favored vendor or to disfavor a particular vendor.
- (c) Evaluators are required to report any attempts by others to improperly influence their scoring to favor or disfavor a particular offeror.
- (d) If an evaluator feels that the evaluator's independence has been compromised, the evaluator must recuse himself or herself from the evaluation process.

KEY: government purchasing, request for proposals, standard procurement process
Date of Enactment or Last Substantive Amendment: [~~October 8, 2014~~]**2015**
Notice of Continuation: July 8, 2014
Authorizing, and Implemented or Interpreted Law: 63G-6a

**Administrative Services, Purchasing
 and General Services
 R33-12
 Terms and Conditions, Contracts,
 Change Orders and Costs**

**NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 38977
 FILED: 11/24/2014**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to continue the update of this rule.

SUMMARY OF THE RULE OR CHANGE: The changes define criteria for multiple award contracts and multi-year contracts.

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

ANTICIPATED COST OR SAVINGS TO:

- ♦ **THE STATE BUDGET:** No fiscal impact is anticipated because this is simply a change in how a proposal will be evaluated and awarded.
- ♦ **LOCAL GOVERNMENTS:** No fiscal impact is anticipated because this is simply a change in how a proposal will be evaluated and awarded.
- ♦ **SMALL BUSINESSES:** No fiscal impact is anticipated because this is simply a change in how a proposal will be evaluated and awarded.
- ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No fiscal impact is anticipated because this is simply a change in how a proposal will be evaluated and awarded.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No fiscal impact is anticipated because this is simply a change in how a proposal will be evaluated and awarded.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ADMINISTRATIVE SERVICES
 PURCHASING AND GENERAL SERVICES
 ROOM 3150 STATE OFFICE BLDG
 450 N STATE ST
 SALT LAKE CITY, UT 84114-1201
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2015

AUTHORIZED BY: Kent Beers, Director

R33. Administrative Services, Division of Purchasing and General Services.

R33-12. Terms and Conditions, Contracts, Change Orders and Costs.

~~R33-12-301. Multiple Award Contracts -- Indefinite Quantity Contracts.~~

~~(1) A multiple award is an award of an indefinite quantity contract for one or more similar procurement items to more than one bidder or offeror, and the procurement unit is obligated to order all of its actual, normal requirements for the specified procurement items from those contractors. A multiple award may be in the procurement unit's best interest when an award to two or more bidders or offerors for similar procurement items is needed for adequate delivery, service, or availability, or for product compatibility. In making a multiple award, care shall be exercised to protect and promote the principles of competitive solicitation. All eligible users of the contract shall be named in the solicitation, and it shall be mandatory that the requirements of the users that can be met under the contract be obtained in accordance with the contract, provided, that:~~

~~(a) the procurement unit shall reserve the right to take bids separately if a particular quantity requirement arises which exceeds an amount specified in the contract; or~~

~~(b) the procurement unit shall reserve the right to take bids separately if the chief procurement officer or head of a procurement unit with independent procurement authority approves a finding that the procurement item available under the contract will not meet a nonrecurring special need of the procurement unit.~~

~~(2) As permitted by Section 63G-6a-1204.5, the division or a procurement unit with independent procurement authority may enter into multiple award contracts. In addition to the content requirements contained in Section 63G-6a-603 and Section 63G-6a-703, when it is anticipated that a procurement will result in multiple contract awards, the solicitation shall include:~~

~~(a) statement that award may be made to more than one bidder or offeror; and,~~

~~(b) the maximum number of awards anticipated; or~~

~~(c) the methodology used to determine the number of contract awards.~~

~~(3) Use of Multiple Award Contracts.~~

~~(a) Whenever practicable, a solicitation for a multiple award contract shall include requirements that procurement units shall:~~

~~(i) obtain a minimum of two quotes for the procurement item(s) sought from the multiple award contractors;~~

~~(ii) use a rotational system of selecting the multiple awarded contractor for the procurement item(s) needed;~~

~~(iii) based on geographical area of assignment or area of expertise; or~~

~~(iv) use other methods to ensure each awarded contractor a fair opportunity to be considered for each order of a procurement item(s) from the procurement unit.~~

~~(4) No method, such as allocation or designation of a preferred awarded contractor, which would not result in fair consideration being given to all multiple award contractors shall be used.~~

~~(5) Multiple award contracts may be awarded by geographical regions, by line items, or any manner that serves the best interest of the procurement units, as determined in writing by the chief procurement officer or head of a procurement unit with independent procurement authority.]~~

R33-12-301. Awarding Multiple Award Contracts.

(1) A multiple award contract is a procurement process where two or more bidders or offerors are awarded a contract under a single solicitation. Purchases are made through an order placed with a vendor on multiple award contract pursuant to the procedures established in R33-12-301.2, ordering from a multiple award contract.

(2) As authorized under Section 63G-6a-1204.5, the division or a procurement unit with independent procurement authority may enter into multiple award contracts.

(3) A multiple award contract may be awarded under a single solicitation when two or more bidders or offerors for similar procurement items are needed for:

(a) Coverage on a statewide, regional, combined statewide and regional basis, agency specific requirement, or other criteria specified in the solicitation such as:

(i) delivery;

(ii) service;

(iii) product availability; or

(iv) Compatibility with existing equipment or infrastructure.

(4) In addition to the requirements set forth in Section 63G-6a-603 and Section 63G-6a-703, when it is anticipated that a procurement will result in multiple contract awards, the solicitation shall include a statement that:

(a) Indicates that contracts may be awarded to more than one bidder or offeror;

(b) Specifies whether contracts will be awarded on a statewide, regional, combined statewide and regional basis, or agency specific requirement; and

(c) Describes specific methodology or a formula that will be used to determine the number of contract awards.

(5) Multiple award contracts in an invitation for bids shall be conducted and awarded in accordance with Utah Code 63G-6a, Part 6 to the lowest responsive and responsible bidder(s) who meet the objective criteria described in the invitation for bids and may be awarded to provide adequate regional, statewide, or combined regional and statewide coverage, agency specific requirement, or delivery, or product availability using the following methods:

(a) lowest bids for all procurement items solicited provided the solicitation indicates that multiple contracts will be awarded to the lowest bidders for all procurement items being solicited as determined by the following methods:

(i) all bids within a specified percentage, not to exceed five percent, of the lowest responsive and responsible bid, unless otherwise approved in writing by the chief procurement officer or head of a procurement unit with independent procurement authority;

(ii) all responsive and responsible bidders will be awarded a contract, provided the contract specifically directs that orders must be placed first with low bidder unless the lowest bidder cannot provide the needed procurement item, then with the second lowest bidder unless the second lowest bidder cannot provide the needed procurement item, then with the third lowest bidder unless the third lowest bidder cannot provide the needed procurement item, and so on in order from the lowest responsive and responsible bidder to the highest responsive and responsible bidder; or

(iii) other methodology described in the solicitation to award contracts;

(b) lowest bid by Category provided:

(i) the solicitation indicates that a contract will be awarded based on the lowest bid per category;

(ii) only one bidder may be awarded a contract per category;

(c) lowest bid by line item provided:

(i) the solicitation indicates that a contract will be awarded based on the lowest bid per line item, task or service;

(ii) only one bidder may be awarded a contract per line item, task or service; or

(d) Other specific objective methodology described in the solicitation, such as R33-12-302 for primary and secondary contracts, approved by the chief procurement officer or head of a procurement unit with independent procurement authority.

(6) Multiple award contracts in a request for proposals shall be conducted and awarded in accordance with Utah Code 63G-6a, Part 7 and may be awarded on a statewide, regional, combination statewide and regional basis, agency specific requirement, or other criteria set forth in the solicitation and in accordance with point thresholds and other methodology set forth in the RFP describing how multiple award contracts will be awarded with enough specificity as to avoid the appearance of any favoritism affecting the decision of whether to award a multiple contract and who should receive a multiple award contract.

R33-12-301a. Multiple Award Contracts for Unidentified Procurement Items.

(1) An unidentified procurement item is defined as a procurement item that at the time the solicitation is issued:

(a) Has not been specifically identified but will be identified at some time in the future, such as an approved vendor list or approved consultant list;

(b) Does not have a clearly defined project or procurement specific scope of work; and

(c) Does not have a clearly defined project or procurement specific budget.

(2) Unidentified procurement items may be procured under the approved vendor list thresholds established by the applicable rule making authority or administrative rule R33-4-102.

(3) An RFP, request for statements of qualifications, or multi stage solicitation issued for a multiple award contract for unidentified procurement item(s) must specify the methodology that the procurement unit will use to determine which vendor under the multiple award contract will be selected.

(a) The methodology must include a procedure to document that the procurement unit is obtaining best value, including an analysis of cost and other evaluation criteria outlined in the solicitation.

(b) The methodology must also ensure the fair and equitable treatment of each multiple award contract vendor, including using methods to select a vendor such as:

(i) a rotation system, organized alphabetically, numerically, or randomly;

(ii) assigning a potential vendor or contractor to a specified geographical area;

(iii) classifying each potential vendor or contractor based on the potential vendor's or contractor's field or area of expertise; or

(iv) obtaining quotes or bids from two or more vendors or contractors.

R33-12-301b. Ordering From A Multiple Award Contract.

(1)(a) When buying a procurement item from a multiple award contract solicited through an invitation for bids, a procurement unit shall:

(i) obtain a minimum of two quotes for the procurement item if the contract was awarded based on the method described in R33-12-301(5)(a)(i) and place the order for the procurement item with the vendor or contractor with the lowest quoted price;

(ii) place the order for the procurement item with the lowest bidder on contract unless the lowest bidder cannot provide the needed procurement item, then the order may be placed with the second lowest bidder unless the second lowest bidder cannot provide the needed procurement item and on, in order, from lowest bidder to highest bidder as described in R33-12-301(5)(a)(ii);

(iii) place the order in accordance with instructions contained in the contract for the procurement item if the contract was awarded based on the method described in R33-12-301(5)(a)(iii);

(iv) place the order for the procurement item if the contract was awarded based on the method described in R33-12-301(5)(b); or

(v) place the order for the procurement item if the contract was awarded based on the method described in R33-12-301(5)(c);

(b) The requirement to obtain two or more quotes in section (1)(a)(i) is waived when there is only one bidder award for the particular procurement item or only one bidder is awarded per geographical area.

(2) When buying a procurement item from a multiple award contract solicited through an RFP, a procurement unit may place orders with any vendor or contractor under contract based on which procurement item best meets the needs of the procurement unit. Contracts awarded through the RFP process are awarded based on best value as determined by cost and non-price criteria specified in the RFP. As a result, all vendors, contractors and procurement items under contract issued through an RFP have been determined to provide best value to procurement units buying from these contracts.

(3) A procurement unit may not use a multiple award contract to steer purchases to a favored vendor or use any other means or methods that do not result in fair consideration being given to all vendors that have been awarded a contract under a multiple award.

R33-12-404. Multi-Year Contracts.

(1) Procurement units may issue multi-year contracts in accordance with Section 63G-6a-1204.

(2) The standard contract term for executive branch procurement units is five years, unless the chief procurement officer or head of a procurement unit with independent procurement authority determines that a shorter or longer term contract is in the best interest of the procurement unit after considering:

(a) the cost associated with conducting more than one procurement within a five-year period if a shorter term is required;

(b) the impact on competition if a longer term is required;

(c) standard practices for the industry; and

(d) the needs of the procurement unit.

R33-12-404a. Contracts With Renewal Options.

(1) In order to ensure fair and open competition in the procurement process and to avoid costs associated with administering contracts with renewal options, executive branch procurement units shall document in writing why renewal options are in the best interest of the procurement unit taking into consideration:

(a) federal funding requirements;

(b) the cost associated with administering renewal options;

(c) how the cost of the procurement item will be established during any renewal periods; and

(d) how the principle of upholding fair and open competition will be maintained.

KEY: terms and conditions, contracts, change orders, costs

Date of Enactment or Last Substantive Amendment: ~~July 8, 2014~~ 2015

Notice of Continuation: July 8, 2014

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

Administrative Services, Purchasing and General Services

R33-16-401

Protest Officer May Correct Noncompliance, Errors and Discrepancies

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38978

FILED: 11/24/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to continue the update of this rule by adding a new section.

SUMMARY OF THE RULE OR CHANGE: The new section addresses the ability to take administrative action to correct or amend a procurement to bring it into compliance.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no anticipated fiscal impact. This simply allows the ability to take a non-compliant procurement and correct any errors or discrepancies or ultimately cancel the procurement.

◆ **LOCAL GOVERNMENTS:** There is no anticipated fiscal impact. This simply allows the ability to take a non-compliant procurement and correct any errors or discrepancies or ultimately cancel the procurement.

◆ **SMALL BUSINESSES:** There is no anticipated fiscal impact. This simply allows the ability to take a non-compliant procurement and correct any errors or discrepancies or ultimately cancel the procurement.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated fiscal impact. This simply allows the ability to take a non-compliant procurement and correct any errors or discrepancies or ultimately cancel the procurement.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no anticipated fiscal impact. This simply allows the ability to take a non-compliant procurement and correct any errors or discrepancies or ultimately cancel the procurement.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule does not have a fiscal impact on businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2015

AUTHORIZED BY: Kent Beers, Director

R33. Administrative Services, Division of Purchasing and General Services.

R33-16. Controversies and Protests.

R33-16-401. Protest Officer May Correct Noncompliance, Errors and Discrepancies.

(1) At any time during the protest process, if it is discovered that a procurement is out of compliance with any part of the Utah Procurement Code or Administrative Rules established by the applicable rule making authority, including errors or discrepancies, the protest officer, chief procurement officer, or head of a procurement unit with independent procurement authority, may take administrative action to correct or amend the procurement to bring it into compliance, correct errors or discrepancies or cancel the procurement.

KEY: conduct, controversies, government purchasing, protests
Date of Enactment or Last Substantive Amendment: [July 8, 2014]2015
Authorizing, and Implemented or Interpreted Law: 63G-6a

Commerce, Occupational and Professional Licensing
R156-31b-202
Advisory Peer Education Committee
Created -- Membership - Duties

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38981

FILED: 11/25/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Nursing Advisory Peer Education Committee reviews applications for approval of nursing education programs, monitors nursing education programs for a limited time, and advises the Division as to nursing education issues. The purpose of this rule change is to ensure representation from nursing education programs with varying organizational structures across the state.

SUMMARY OF THE RULE OR CHANGE: The proposed amendments to Subsection R156-31b-202(3)(a) increase the number of committee members from five to seven and require representation from public, private, and proprietary nursing education programs.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-31b-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 printing and mailing costs incurred will be absorbed in the Division's current budget. The proposed amendment has no impact on other Division costs. Members of the Nursing Advisory Peer Education Committee do not receive any travel or parking reimbursement or a per diem for their service. Service on the Committee is strictly voluntary.

♦ **LOCAL GOVERNMENTS:** The proposed amendments apply only to the Nursing Advisory Peer Education Committee and its membership. As a result, the proposed amendments do not apply to local governments.

♦ **SMALL BUSINESSES:** The proposed amendments apply only to the Nursing Advisory Peer Education Committee and its membership. As a result, the proposed amendments do not apply to small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments apply only to the Nursing Advisory Peer Education Committee and its membership. As a result, the proposed amendments do not apply to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments apply only to the Nursing Advisory Peer Education Committee and its membership. Individuals who are appointed to serve on the Committee will be responsible for all costs related to travel associated with their attendance at committee meetings. Due to a wide range of circumstances with appointed Committee members, the Division is not able to determine an individual's cost to attend committee meetings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As stated in the rule analysis, this filing expands the membership of the committee that oversees nursing education programs so as to gain broader representation across the industry. 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:

♦ **Suzette Farmer** by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at sfarmer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2015

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-31b. Nurse Practice Act Rule.
R156-31b-202. Advisory Peer Education Committee Created --
Membership - Duties.**

(1) In accordance with Subsection 58-1-203(1)(f), there is created the Advisory Peer Education Committee.

(2) The duties and responsibilities of the Advisory Peer Education Committee are to:

(a) review applications for approval of nursing education programs;

(b) monitor a nursing education program that is approved for a limited time under Section R156-31b-602 as it progresses toward accreditation; and

(c) advise the Division as to nursing education issues.

(3) The composition of the Advisory Peer Education Committee shall be:

(a) [five]seven RNs or APRNs actively involved in nursing education, including at least one representative from public, private, and proprietary nursing programs; and

(b) any member of the Board who wishes to serve on the committee.

KEY: licensing, nurses

Date of Enactment or Last Substantive Amendment: ~~June 23, 2014~~ 2015

Notice of Continuation: March 18, 2013

Authorizing, and Implemented or Interpreted Law: 58-31b-101; 58-1-106(1)(a); 58-1-202(1)(a)

**Commerce, Occupational and
Professional Licensing
R156-31b-609**

**Standards for Out-of-State Programs
Providing Clinical Experiences in Utah**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38980

FILED: 11/25/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Nursing Advisory Peer Education Committee, which is an advisory peer committee to the Board of Nursing, reviews applications from nursing programs located outside of Utah for clinical placements in Utah. With a recent proliferation of non-traditional nursing programs, a number of nursing programs across the country teach the classroom portion of a nursing program online or through other electronically enhanced means. These non-traditional nursing programs then allow their students to complete the

clinical portion of their education in the student's home state. These non-traditional programs cater to pre- and post-licensure nursing students. The Board of Nursing and the Division seek to clarify that all nursing programs requesting student placements, pre- or post-licensure, must be reviewed by the Board of Nursing. Because these non-traditional student placements are individualized to the student, the program, and the learning objectives for each placement, the Board also determined that it could not require these programs to have a current placement agreement.

SUMMARY OF THE RULE OR CHANGE: The proposed amendments to this section require out-of-state pre- and post-licensure programs to present satisfactory documentation to the Board of Nursing that the educational program meets expectations similar to those of nursing education programs based in Utah.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-31b-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 printing and mailing costs incurred will be absorbed in the Division's current budget.

♦ **LOCAL GOVERNMENTS:** The proposed amendments apply only to out-of-state nursing programs who are providing clinical experiences in Utah for pre- and post-licensure nursing students. As a result, the proposed amendments do not apply to local governments.

♦ **SMALL BUSINESSES:** The proposed amendments apply only to out-of-state nursing programs who are providing clinical experiences in Utah for pre- and post-licensure nursing students. Out-of-state nursing programs, who may qualify as a small business, will present written documentation to the Nursing Board for review and will be scheduled to meet with the Board via telephone. Out-of-state nursing programs may incur nominal costs to submit written documentation to the Board and Division in order to comply with proposed amendments. However, due to wide range of circumstances, the Division is unable to quantify these costs.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments apply only to out-of-state nursing programs who are providing clinical experiences in Utah for pre- and post-licensure nursing students. Out-of-state nursing programs will present written documentation to the Nursing Board for review and will be scheduled to meet with the Board via telephone. Out-of-state nursing programs may incur nominal costs to submit written documentation to the Board and Division in order to comply with proposed amendments. However, due to wide range of circumstances, the Division is unable to quantify these costs. As a result, the Division has determined the proposed amendments do not apply to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments apply only to out-of-state nursing programs who are providing clinical experiences in Utah for pre- and post-licensure nursing students. Out-of-state nursing programs will present written documentation to the Nursing Board for review and will be scheduled to meet with the Board via telephone. Out-of-state nursing programs may incur nominal costs to submit written documentation to the Board and Division in order to comply with proposed amendments. However, due to wide range of circumstances, the Division is unable to quantify these costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The existing rule establishes Board of Nursing oversight for any nursing program provider that seeks to use a Utah health care facility for pre-licensure clinical experiences. This filing expands the scope of the Board's oversight to include post-licensure placements as well. Any business that has avoided oversight by characterizing its clinical placements as "post-licensure" will incur costs to provide documentation and records for the Board's review. Such costs will vary and cannot be specified, but are anticipated to be minimal.

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

COMMERCE
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 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:
 ♦ Suzette Farmer by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at sfarmer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2015

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-31b. Nurse Practice Act Rule.
R156-31b-609. Standards for Out-of-State Programs Providing Clinical Experiences in Utah.

A nursing education program provider located in another state that desires to use Utah health care facilities for [pre-licensure] clinical experiences for one or more students shall, prior to placing a student, meet with the Board and demonstrate to the satisfaction of the Board that the program:

(1) has been approved by the home state Board of Nursing;

- (2) has been fully accredited by the ACEN, CCNE, or COA;
- (3) has clinical faculty who:
 - (a) are employed by the nursing education program;
 - (b) meet the requirements to be a faculty member as established by the accrediting body and the home state's Board of Nursing; ~~and~~
 - (c) are licensed in good standing in Utah or a Compact state; and
 - (~~4~~)d [is]are affiliated with an institution of higher education; and
 - (~~5~~)4 has a plan for selection and supervision of:
 - (a) faculty or preceptor; and
 - (b) the clinical activity, including:
 - (i) location, and
 - (ii) date range; ~~and~~
 - ~~(6) has current clinical placement agreements, executed within the prior 12 months, in place at Utah facilities].~~

KEY: licensing, nurses
Date of Enactment or Last Substantive Amendment: [~~June 23, 2014~~]2015
Notice of Continuation: March 18, 2013
Authorizing, and Implemented or Interpreted Law: 58-31b-101; 58-1-106(1)(a); 58-1-202(1)(a)

**Commerce, Occupational and
 Professional Licensing
 R156-60a
 Social Worker Licensing Act Rule**

**NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 38979
 FILED: 11/25/2014**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Social Worker Licensing Board reviewed the rule and determined it was necessary to modify the social worker examination and licensed clinical social worker (LCSW) training requirements.

SUMMARY OF THE RULE OR CHANGE: In Section R156-60a-302c, the rule currently requires applicants for the LCSW license to hold a certified social worker (CSW) license while they gather 4,000 hours of training. The proposed amendment creates two exceptions to this requirement. The first exception is for an individual who is not licensed as a CSW in Utah because the individual is under an exemption established in Subsection 58-1-307(1)(a) for an individual who works at a federal agency and who is licensed in another state. The second exception is for an individual who gathers

training hours outside Utah in a jurisdiction where the individual holds either a license equivalent to the CSW or is trained without a license under the laws of that jurisdiction. Subsection R156-60a-302d(4) is removed because the Division is removing itself from the exam pre-approval process. Under the new process, the Association of Social Work Boards (ASWB) determines who takes the ASWB exam. The new process will dramatically decrease the number of days that a social worker license application is pending with the Division.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-60-201 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Administering the pre-approval process for the ASWB exams distracts Division staff from their primary responsibility of processing social worker license applications. As a result, the Division will experience savings impact due to removing itself from the exam pre-approval processes under amendments to Section R156-60a-302c. The Division is unable to estimate the extent of savings impact cause by this amendment. The Division will incur minimal costs of approximately \$100 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. No other cost impact to the Division is anticipated.

◆ **LOCAL GOVERNMENTS:** The proposed amendments apply only to social worker license applicants. As a result, the proposed amendments do not apply to local governments.

◆ **SMALL BUSINESSES:** The proposed amendments impact social worker license applicants, who may own a small business. Removing the Division from the ASWB exam pre-approval process has cost impact on applicants in Utah seeking to register for the ASWB exam. ASWB charges candidates a \$60 fee to perform services related to the exam pre-approval process. The Division is unable to determine an aggregate cost to social worker applicants since the Division does not know how many new applicants will be applying to take the ASWB exam and will thus be subject to the \$60 fee. Creation of the two exceptions to the requirement for individuals to hold a CSW license while they fulfill the LCSW training requirement will have savings impact on individuals who fall under the exceptions. The Division is unable to estimate the extent of savings impact caused by this amendment.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments impact social worker license applicants. Removing the Division from the ASWB exam pre-approval process has cost impact on applicants in Utah seeking to register for the ASWB exam. ASWB charges candidates a \$60 fee to perform services related to the exam pre-approval process. The Division is unable to determine an aggregate cost to social worker applicants since the Division does not know how many new applicants will be applying to take the ASWB exam and will thus be subject to the \$60 fee.

Creation of the two exceptions to the requirement for individuals to hold a CSW license while they fulfill the LCSW training requirement will have savings impact on individuals who fall under the exceptions. The Division is unable to estimate the extent of savings impact caused by this amendment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments impact social worker license applicants. Removing the Division from the ASWB exam pre-approval process has cost impact on applicants in Utah seeking to register for the ASWB exam. ASWB charges candidates a \$60 fee to perform services related to the exam pre-approval process. Creation of the two exceptions to the requirement for individuals to hold a CSW license while they fulfill the LCSW training requirement will have savings impact on individuals who fall under the exceptions. The Division is unable to estimate the extent of savings impact caused by this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing eliminates existing examination requirements that the Division will no longer seek to enforce. In addition, it allows individuals who have not obtained a Utah certified social worker license to submit an application for a clinical social worker license if they have been approved by another state to work as a certified social worker. It is anticipated that these amendments will affect individuals seeking licensure, with no fiscal impact to businesses.

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

COMMERCE
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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:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2015

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 01/07/2015 08:30 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 403, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2015

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-60a. Social Worker Licensing Act Rule.
R156-60a-302c. Training Requirements for Licensure as an LCSW.

(1) In accordance with Subsections 58-60-205(1)(e),(f) and (g), and 58-60-202(4)(a), the 4,000 hours of clinical social work and mental health therapy training qualifying an applicant for licensure as an LCSW shall:

(1)a be obtained after completion of the education requirement set forth in Subsections 58-60-205(1)(d) and (g) and shall not include any clinical practicum hours obtained as part of the education program;

(2)b be completed over a [duration]period of not less than two years;

(3)c unless this Subsection (2) applies, be completed while the applicant is licensed as a CSW;

(4)d be completed while the [CSW is an employee of]applicant is employed by a public or private agency engaged in mental health therapy;

(5)e be completed under a program of general supervision by an LCSW meeting the requirements of Sections R156-60a-302e and R156-60a-601; and

(6)f include the following training requirements:

(a)i individual, family, and group therapy;

(b)ii crisis intervention;

(c)iii intermediate treatment; and

(d)iv long term treatment.

(2) An applicant may apply to the Division for an LCSW license without complying with this Subsection (1)(c) if:

(a) the applicant qualifies for a license exemption under Subsection 58-1-307(1)(a); or

(b) the applicant completed training in another jurisdiction, which training is completed:

(i) while the applicant is licensed as the equivalent of a CSW; or

(ii) while the applicant is not required to be licensed while engaged in the practice of certified social work.

R156-60a-302d. Examination Requirements.

(1) In accordance with Subsection 58-60-205(1)(h), the examination requirements for licensure as an LCSW include passing the Clinical Examination of the ASWB or the Clinical Social Workers Examination of the State of California.

(2) In accordance with Subsection 58-60-205(2)(e), the examination requirements for licensure as a CSW shall include passing the Masters, Advanced Generalist, or Clinical Examination of the ASWB.

(3) In accordance with Subsection 58-60-205(4)(e), the examination requirements for licensure as an SSW shall include passing the Bachelors Examination of the ASWB.

(4) [Applicants for any ASWB exam must pass the exam within one year from date of the Division's approval for the applicant to take the exam. If the applicant does not pass the required exam within one year, the pending license application shall be denied.

(5) Applicants requesting additional time to complete any ASWB exam in accordance with Subsection 58-60-205(5) shall complete an ASWB application for special arrangements approved by the Division.

KEY: licensing, social workers

Date of Enactment or Last Substantive Amendment: [July 9, 2012]2015

Notice of Continuation: August 4, 2014

Authorizing, and Implemented or Interpreted Law: 58-60-201; 58-1-106(1)(a); 58-1-202(1)(a)

**Commerce, Occupational and
Professional Licensing
R156-60d
Substance Use Disorder Counselor Act
Rule**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38964

FILED: 11/20/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Substance Use Disorder Counselor Board reviewed the rule and determined it was necessary to: 1) increase the proportion of continuing education that may be achieved through distance learning, clinical readings, or internet-based courses; and 2) make various nonsubstantive changes.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-60d-102(1), the phrase "means an educational institution" is added in order to make a complete sentence out of the definition. In Section R156-60d-302a, an error in the number of prerequisite courses is corrected. In Subsection R156-60d-304(5)(c), the maximum number of contact hours of continuing education recognized for distance learning, clinical readings, or internet-based courses is increased from 6 to 15. The term "distance learning" is added to clarify the intent of the requirement. The total number of continuing education hours remains constant at 40 hours.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-60-501 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 apply only to licensed substance use disorder counselors. As a result, the proposed amendments do not apply to local governments.

♦ **SMALL BUSINESSES:** The proposed amendments apply only to licensed substance use disorder counselors. Licensees may work in a small business; however, the proposed amendments would not directly affect the business. If a small business is owned by a licensed substance use disorder counselor, the business may experience some indirect cost savings due to increasing the maximum number of contact hours of continuing education recognized for distance learning, clinical readings, or internet-based courses from 6 to 15 hours. Due to a wide range of circumstances, the Division cannot quantify anticipated savings to this type of small business.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments apply only to licensed substance use disorder counselors. Increasing the maximum number of contact hours of continuing education recognized for distance learning, clinical readings, or internet-based courses from 6 to 15 is likely to result in a cost savings to licensees who complete continuing education via distance methods. Licensees practicing in rural Utah are likely to benefit the most from this amendment because they travel longer distances to attend live courses. Due to a wide range of circumstances, the Division cannot quantify anticipated savings to licensees.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments apply only to licensed substance use disorder counselors. Increasing the maximum number of contact hours of continuing education recognized for distance learning, clinical readings, or internet-based courses from 6 to 15 is likely to result in a cost savings to licensees who complete continuing education via distance methods. Licensees practicing in rural Utah are likely to benefit the most from this amendment because they travel longer distances to attend live courses. Due to a wide range of circumstances, the Division cannot quantify anticipated savings to licensees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In addition to making technical corrections, this filing modifies the continuing education requirement to allow credit for up to 15 hours of distance learning per renewal period. Allowing licensees to obtain continuing education online is likely to result in cost savings to individuals. No fiscal impact to businesses is anticipated.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2015

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 01/07/2015 08:30 AM, Heber Wells Bldg, 160 E 300 S, Hearing Room 403 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2015

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.

R156-60d. Substance Use Disorder Counselor Act Rule.

R156-60d-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 60, as used in Title 58, Chapters 1 and 60 or this rule:

(1) "Accredited institution of higher education that meet division standards", as used in Subsections 58-60-506(2)(a)(i) and (5)(a)(i), means an educational institution that has accreditation that is recognized by the Council for Higher Education Accreditation of the American Council on Education (CHEA).

(2) "ASAM" means the American Society of Addiction Medicine Patient Placement Criteria.

(3) "DSM-IV or 5" means the Diagnostic Statistical Manual of Mental Health Disorders published by the American Psychiatric Association.

(4) "General supervision" means that the supervisor provides consultation with the supervisee by personal face to face contact, or direct voice contact by telephone or some other means within a reasonable time consistent with the acts and practices in which the supervisee is engaged.

(5) "ICRC" means the International Certification and Reciprocity Consortium.

(6) "Initial assessment" means the procedure of gathering psycho-social information, which may include the application of the Addiction Severity Index, in order to recommend a level of treatment and to assist the mental health therapist supervisor in the information collection process and may include a referral to an appropriate treatment program.

(7) "NAADAC" means the National Association of Alcohol and Drug Abuse Counselors.

(8) "Prerequisite courses, as used in Subsection 58-60-506(2)(a)(iii) and (5)(a)(iii) means courses completed before qualifying for licensure.

(9) "SASSI" means Substance Abuse Subtle Screening Inventory.

(10) "Screening", as used in Subsection 58-60-502(9)(b) and (10)(b), means a brief interview conducted in person or by telephone to determine if there is a potential substance abuse problem. If a potential problem is identified, the screening may

include a referral for an initial assessment or a substance use disorder evaluation. The screening may also include a preliminary ASAM level recommendation in order to expedite the subsequent assessment and evaluation process. Screening instruments such as the SASSI may be included in the screening process.

(11) "Substance use disorder evaluation" means the process used to interpret information gathered from an initial assessment, other instruments as needed, and a face to face interview by a licensed mental health therapist in order to determine if an individual meets the DSM-IV or 5 criteria for substance abuse or dependence and is in need of treatment. If the need for treatment is determined, the substance use disorder evaluation process includes the determination of a DSM-IV or 5 diagnosis and the determination of an individualized treatment plan.

(12) "Substance use disorder education program", as used in Subsection 58-60-506(2)(b) and (5)(b), means college or university coursework at an accredited institution.

(13) "Unprofessional conduct," as defined in Title 58 Chapters 1 and 60, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-60d-502.

R156-60d-302a. Qualifications for Licensure - Education Requirements.

(1) In accordance with Subsection 58-60-506(2)(a)(iii) and (5)(a)(iii), ~~three~~two prerequisite courses shall be completed at an accredited institution and shall cover the following subjects:

- (a) human development across the lifespan; and
- (b) general psychology.

(2) In accordance with Subsection 58-60-506(5)(a)(ii), completion of the equivalent of an associate's degree includes not less than 90 quarter or 60 semester credit hours of course work from accredited institutions of higher education that have accreditation recognized by the Council for Higher Education Accreditation of the American Council on Education (CHEA).

R156-60d-304. Continuing Education.

(1) In accordance with Section 58-60-105, there is created a continuing education requirement as a condition for renewal or reinstatement of a licensed advanced substance use disorder counselor, certified advanced substance use disorder counselor, licensed substance use disorder counselor, or a certified substance use disorder counselor issued under Title 58, Chapter 60, Part 5.

(2) Continuing education shall consist of 40 hours of education directly related to the licensee's professional practice. A licensed advanced substance use disorder counselor and licensed substance use disorder counselor shall complete the requirement during each two year license renewal cycle. A certified advanced substance use disorder counselor and a certified substance use disorder counselor shall complete the requirement during each two year period following the date of initial licensure. At least six of the 40 required hours must be in the area of professional ethics and responsibilities.

(3) The required number of hours of continuing education for a licensed advanced substance use disorder counselor or a licensed substance use disorder counselor who first becomes licensed during the two year renewal cycle shall be decreased in a pro rata amount equal to any part of that two year renewal cycle preceding the date on which that individual first became licensed.

(4) The standards for continuing education shall include:

(a) a clear statement of purpose and defined objective for the educational program directly related to the practice of a substance use disorder counselor;

(b) documented relevance to the licensee's professional practice;

(c) a competent, well-organized, and sequential presentation consistent with the stated purpose and objective of the program;

(d) preparation and presentation by individuals who are qualified by education, training, and experience; and

(e) a competent method of registration of individuals who actually completed the continuing education program and records of that registration completion available for review.

(5) Credit for continuing education shall be recognized in accordance with the following:

(a) unlimited hours shall be recognized for continuing education completed in blocks of time of not less than 50 minutes in formally established classroom courses, seminars, conferences, workshops, institutes, or in services;

(b) a maximum of ten hours per two year period may be recognized for teaching in a college or university, or teaching continuing education courses in the field of substance use disorder counseling; and

(c) a maximum of ~~six~~15 hours per two year period may be recognized for distance learning, clinical readings or internet-based courses directly related to practice as a substance use disorder counselor.

(6) A licensee shall be responsible for maintaining competent records of completed continuing education for a period of four years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain such information with respect to continuing education to demonstrate it meets the requirements under this section.

(7) A licensee who documents he is engaged in full time activities or is subjected to circumstances which prevent that licensee from meeting the continuing education requirements established under this section may be excused from the requirement for a period of up to five years. However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.

KEY: licensing, substance use disorder counselors

Date of Enactment or Last Substantive Amendment: ~~November 21, 2013~~**2015**

Notice of Continuation: January 31, 2011

Authorizing, and Implemented or Interpreted Law: 58-60-501; 58-1-106(1)(a); 58-1-202(1)(a)

Commerce, Occupational and
Professional Licensing
R156-61
Psychologist Licensing Act Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38957

FILED: 11/17/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Psychologist Licensing Board reviewed the rule and determined it was necessary to: 1) further define an existing license exemption established in Subsection 58-1-307(1)(b); 2) modify the definition of a program accredited by the Commission on Accreditation (CoA) of the American Psychological Association; 3) modify the examination requirement; and 4) make various nonsubstantive changes.

SUMMARY OF THE RULE OR CHANGE: Subsection R156-61-102(4) is added to define the term "on-the-job training program" as used in Subsection 58-1-307(1)(b). Standards that these programs must meet are established in Section R156-61-601. These proposed amendments create a 45-day exemption applicable to individuals who have completed all required coursework for a degree but who do not yet qualify for a license because they are waiting for their school to formally award the degree. There is always a gap between the completion date of a final course of a program and the formal awarding of a degree. This proposed amendment allows these individuals to continue to legally work under an exemption for a maximum of 45 days under certain conditions specified in the rule. Renumbering changes are made throughout the section. In Subsection R156-61-601(6), the definition of the term "program accredited by CoA" is expanded to include programs that are under review for accreditation by the CoA and approved for a site visit within six years after the applicant satisfactorily completed the program. This amendment is necessary in order to accommodate qualified applicants who graduate from programs that are not accredited by the CoA, but have been approved for a site visit by CoA. In Section R156-61-302a, an incorrect rule citation is corrected. In Section R156-61-302b, a typographical error is corrected. Subsection R156-61-302c(2) is removed because the Division is removing itself from the exam pre-approval process. Under the new process, the American Association of State Psychology Board (ASPPB) will control who takes the Examination for the Professional Practice of Psychology (EPPP), and the Division's testing contractor will control who takes the Utah Psychologist Law and Ethics Exam. The new process will dramatically decrease the number of days that a psychologist license application is pending with the Division. Subsections R156-61-302c(6) and (7) are no longer necessary under the new process and are being deleted. The new Section R156-61-601 establishes standards for an approved on-the-job training program.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-61-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** Administering the exam pre-approval process for the EPPP and the Utah Psychologist Law and Ethics examinations currently distracts Division staff from their primary responsibility of processing license applications. As a result, the Division will experience savings impact due to removing itself from the exam pre-approval processes under amendments to Section R156-61-302c. The Division is unable to estimate the extent of savings impact caused by this amendment. The Division will incur minimal costs of approximately \$100 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. No other cost impact to the Division is anticipated.

♦ **LOCAL GOVERNMENTS:** The proposed amendments apply only to doctoral psychology students and applicants for licensure as a psychologist. As a result, the proposed amendments do not apply to local governments.

♦ **SMALL BUSINESSES:** Many mental health agencies and private practices are small businesses that employ individuals as they transition from being a student to a licensed psychologist. These businesses may experience a cost savings under the proposed amendments because the amendments enable individuals to continue therapy or counseling with their clients for up to 45 days after the individual completes coursework. If a business decides to keep the student on staff after completion of the internship course, the business will avoid the expense of hiring a new employee to perform the services provided by the student. The Division is unable to quantify this impact due to a wide range of circumstances.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Many individuals working in the psychology field and transitioning from being a student to a licensee may experience a cost savings because the proposed amendments enable them to continue practicing psychology with clients for up to 45 days after completing their coursework. It may also increase the likelihood that an internship site will continue to employ an individual after they complete the internship. The Division is unable to quantify this impact due to a wide range of circumstances. Removing the Division from the EPPP exam pre-approval process has cost impact on individuals in Utah seeking to register for the EPPP. This is because the ASPPB has indicated that it will require candidates to register for the ASPPB Psychology Licensure Universal System (PLUS) as part of the exam pre-approval process. Registration for the PLUS requires payment of a \$200 fee.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Many individuals working in the psychology field and transitioning from being a student to a licensee may experience a cost savings because the proposed amendments enable them to continue practicing psychology with clients for up to 45 days after completing their coursework. It may also increase the likelihood that an internship site will continue to employ an individual after they complete the internship. The Division is unable to quantify this impact due to a wide range of

circumstances. Removing the Division from the EPPP exam pre-approval process has cost impact on individuals in Utah seeking to register for the EPPP. This is because the ASPPB has indicated that it will require candidates to register for the ASPPB Psychology Licensure Universal System (PLUS) as part of the exam pre-approval process. Registration for the PLUS requires payment of a \$200 fee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing creates a program under which an individual who has completed a doctoral program in psychology may work for a period of up to 45 days while waiting for the degree to be awarded and the license application to be processed. Businesses that have employed students and wish to continue the employment relationship during the licensing process may realize savings under this program. Any such fiscal impact will vary and cannot be quantified.

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

COMMERCE
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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:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2015

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 01/06/2015 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Rom 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2015

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.

R156-61. Psychologist Licensing Act Rule.

R156-61-101. Title.

This rule is known as the "Psychologist Licensing Act Rule."

R156-61-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 61, as used in Title 58, Chapters 1 and 61 or this rule:

(1) "Approved diagnostic and statistical manual for mental disorders" means the following:

(a) Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition: DSM-5 or Fourth Edition: DSM-IV published by the American Psychiatric Association;

(b) 2013 ICD-9-CM for Physicians, Volumes 1 and 2 Professional Edition published by the American Medical Association; or

(c) ICD-10-CM 2013: The Complete Official Draft Code Set published by the American Medical Association.

(2) "CoA" means Committee on Accreditation of the American Psychological Association.

(3) "Direct supervision" of a supervisee in training, as used in Subsection 58-61-304(1)(f), means:

(a) a supervisor meeting with the supervisee when both are physically present in the same room at the same time; or

(b) a supervisor meeting with the supervisee remotely via real-time electronic methods that allow for visual and audio interaction between the supervisor and supervisee under the following conditions:

(i) the supervisor and supervisee shall enter into a written supervisory agreement which, at a minimum, establishes the following:

(A) frequency, duration, reason for, and objectives of electronic meetings between the supervisor and supervisee;

(B) a plan to ensure accessibility of the supervisor to the supervisee despite the physical distance between their offices;

(C) a plan to address potential conflicts between clinical recommendations of the supervisor and the representatives of the agency employing the supervisee;

(D) a plan to inform a supervisee's client or patient and employer regarding the supervisee's use of remote supervision;

(E) a plan to comply with the supervisor's duties and responsibilities as established in rule; and

(F) a plan to physically visit the location where the supervisee practices on at least a quarterly basis during the period of supervision or at a lesser frequency as approved by the Division in collaboration with the Board;

(ii) the supervisee submits the supervisory agreement to the Division and obtains approval before counting direct supervision completed via live real-time methods toward the 40 hour direct supervision requirement; and

(iii) in evaluating a supervisory agreement, the Division shall consider whether it adequately protects the health, safety, and welfare of the public.

(4) "On-the-job training program approved by the Division", as used in Subsection 58-61-301(1)(b), means a program that meets the standards established in Section R156-61-601.

([4]5)(a) "Predoctoral internship" refers to a formal training program that meets the minimum requirements of the Association of Psychology Postdoctoral and Internship Centers (APPIC) offered to culminate a doctoral degree in clinical, counseling, or school psychology.

(b) A training program may be a full-time one year program or a half-time two year program.

([5]6)(a) "Program accredited by the CoA", as used in Subsections R156-61-302a(1), means a psychology department program that, as of the date on which a student completes a doctoral psychology degree program:

~~(i) has obtained an accreditation from the CoA; or
(ii)(A) has applied to the CoA for accreditation;
(B) has been approved by the CoA for a site visit, which is to occur within the ensuing six years; and
(C) has not previously been denied accreditation by the CoA.~~ ~~that is accredited at the time of completion of a doctoral psychology degree.~~

~~(b) No other accredited educational program at a degree-granting institution is considered to meet the requirement in Subsections R156-61-302a(1), and in no case are departments or institutions of higher education considered accredited.]~~

([6]Z)(a) "Program of respecialization", as used in Subsection R156-61-302a(3), is a formal program designed to prepare someone with a doctoral degree in psychology with the necessary skills to practice psychology.

(b) The respecialization activities shall include substantial requirements that are formally offered as an organized sequence of course work and supervised practicum leading to a certificate (or similar recognition) by an educational body that offers a doctoral degree qualifying for licensure in the same area of practice as that of the certificate.

([7]Z) "Qualified faculty", as used in Subsection 58-1-307(1)(b), means a university faculty member who provides pre-doctoral supervision of clinical or counseling experience in a university setting who:

(i) is licensed in Utah as a psychologist; and

(ii) is training students in the context of a doctoral program leading to licensure.

([8]Z) "Residency program", as used in Subsection 58-61-301(1)(b), means a program of post-doctoral supervised clinical training necessary to meet licensing requirements as a psychologist.

([9]Z)(a) "Psychology training", as used in Subsection 58-61-304(1)(e), means practical training experience providing direct services in the practice of mental health therapy and psychology under supervision. All activities in full-time internships and full-time post-doctoral positions devoted solely to mental health delivery meet this definition.

(b) Activities not directly related to the practice of psychology, even if commonly performed by psychologists, do not meet the definition of psychology training under Subsection 58-61-304(1)(e). Examples of ineligible activities include psychology coursework, analog clinical activities (e.g. role plays), activities required for business purposes (e.g. billing), supervision of others engaged in activities other than practice of psychology (e.g. supervising adolescents in wilderness settings), and activities commonly performed by non-psychologists (e.g. teaching of psychology on topics not of a professional nature).

R156-61-302a. Qualifications for Licensure - Education Requirements.

(1) In accordance with Subsection 58-61-304(1)(d), an institution or program of higher education awarding a psychology degree that qualifies an applicant for licensure as a psychologist shall be accredited by the CoA.

(a) An applicant shall graduate from the actual program that is accredited by CoA. No other program within the department or institution qualifies unless separately accredited.

(b) If a transcript does not uniquely identify the qualifying CoA accredited degree program, it is the responsibility of

the applicant to provide signed, written documentation from the program director or department chair that the applicant did indeed graduate from the qualifying accredited degree program.

(2) In accordance with Subsection 58-61-304(1)(d), an institution or program of higher education awarding a psychology doctoral degree that is not accredited by CoA shall meet the following criteria in order to qualify an applicant for licensure as a psychologist:

(a) if located in the United States or Canada, be an institution having a doctoral psychology program recognized by the Association of State and Provincial Psychology Boards (ASPPB)/National Register Joint Designation Committee as being found to meet "designation criteria", at the time the applicant received the earned degree. Whether a program is found to meet designation criteria is a decision to be made by the ASPPB/National Register Joint Designation Committee; or

(b) if located outside of the United States or Canada, be an institution that meets the ASPPB National Register (NR) Designation Guidelines for defining a doctoral degree in psychology as determined by the NR.

(3) An applicant whose psychology doctoral degree training is not designed to lead to clinical practice or who wishes to practice in a substantially different area than the training of the doctoral degree shall complete a program of respecialization as defined in Subsection R156-61-102([5]Z), and shall meet requirements of Subsection[s] R156-61-302a(2).

(4) The date of completion of the doctoral degree shall be the graduation date listed on the official transcript.

R156-61-302b. Qualifications for Licensure - Experience Requirements.

(1) An applicant for licensure as a psychologist under Subsection 58-61-304(1)(e) or mental health therapy under Subsections 58-61-304(1)(e) and (1)(f) shall complete a minimum of 4,000 hours of psychology training approved by the Division in collaboration with the Board. The training shall:

(a) be completed in not less than two years;

(b) be completed in not more than four years following the awarding of the doctoral degree unless the Division in collaboration with the Board approves an extension due to extenuating circumstances;

(c) be completed while the applicant is enrolled in an approved doctoral program or licensed as a certified psychology resident;

(d) be completed while the applicant is under the supervision of a qualified psychologist meeting the requirements under Section R156-61-302d;

(e) if completed under the supervision of a qualified faculty member who is not an approved psychology training supervisor in accordance with Subsection R156-61-302d, the training shall not be credited toward the 4,000 hours of psychology doctoral clinical training;

(f) be completed as part of a supervised psychology training program as defined in Subsection R156-61-102(4) that does not exceed:

(i) 40 hours per week for full-time internships and full-time post doctoral positions; or

(ii) 20 hours of part-time internships and part-time post doctoral positions; and

(g) be completed while the applicant is under supervision of a minimum of one hour of supervision for every 20 hours of pre-doctoral training and experience and one hour for every 40 hours of post-doctoral training and experience.

(2) In accordance with Subsection 58-61-301(1)(b), an individual engaged in a post-doctoral residency program of supervised clinical training shall be certified as a psychology resident.

(3) An applicant for licensure may accrue any portion of the 4,000 hours of psychology doctoral degree training and experience required in Subsection 58-61-304(1)(e) in a pre-doctoral program.

(4) An applicant who applies for licensure as a psychologist who completes the 4,000 hours of psychology doctoral degree training and experience required in Subsection 58-61-304(1)(e) in a pre-doctoral program or post-doctoral residency, and meets qualifications for licensure, may be approved to sit for the examinations, and upon passing the examinations will be issued a psychologist license.

(5) An applicant for licensure as a psychologist who has commenced and completed all or part of the psychology or mental health therapy training requirements under Subsection R156-61-302b(1) outside the state, may receive credit for that training completed outside of the state if it is demonstrated by the applicant that the training is equivalent to the requirements for training under Subsections 58-61-304(1)(e) and (f), and Subsection R156-61-302b(1).

R156-61-302c. Qualifications for Licensure - Examination Requirements.

(1) The examination requirements which shall be met by an applicant for licensure as a psychologist under Subsection 58-61-304(1)(g) are:

(a) passing the Examination for the Professional Practice of Psychology (EPPP) developed by the American Association of State Psychology Board (ASPPB) with a passing score as recommended by the ASPPB; and

(b) passing the Utah Psychologist Law and Ethics Examination with a score of not less than 75%.

(2) ~~[A person may be admitted to the EPPP and Utah Psychologist Law and Ethics examinations in Utah only after meeting the requirements under 58-61-305, and after receiving written approval from the Division.~~

(3) If an applicant is admitted to an EPPP examination based upon substantive information that is incorrect and furnished knowingly by the applicant, the applicant shall automatically be given a failing score and shall not be permitted to retake the examination until the applicant submits fees and a correct application demonstrating the applicant is qualified for the examination and adequately explains why the applicant knowingly furnished incorrect information. If an applicant is inappropriately admitted to an EPPP examination because of a Division or Board error and the applicant receives a passing score, the results of the examination may not be used for licensure until the deficiency which would have barred the applicant for admission to the examination is corrected.

~~[(4)]~~ An applicant who fails the EPPP examination three times will only be allowed subsequent admission to the examination after the applicant has appeared before the Board, developed with the Board a plan of study in appropriate subject matter, and thereafter completed the planned course of study to the satisfaction of the Board.

~~[(5)]~~ An applicant who is found to be cheating on the EPPP examination or in any way invalidating the integrity of the examination shall automatically be given a failing score and shall not be permitted to retake the examination for a period of at least three years or as determined by the Division in collaboration with the Board.

~~(6) In accordance with Section 58-1-203 and Subsection 58-61-304(1)(g), an applicant for the EPPP or the Utah Psychologist Law and Ethics Examination shall pass the examinations within one year from the date of the psychologist application for licensure. If the applicant does not pass the examinations within one year, the pending psychologist application shall be denied. The applicant may continue to register to take the EPPP examination under the procedures outlined in Subsection R156-61-302e(4).~~

~~(7) In accordance with Section 58-1-203 and Subsection 58-61-304(2)(d), an applicant for psychologist licensure by endorsement shall pass the Utah Psychologist Law and Ethics Examination within six months from the date of the psychologist application for licensure. If the applicant does not pass the examination in six months, the pending psychologist application shall be denied.]~~

R156-61-601. Standards - Approved On-the-Job Training Program.

In accordance with Subsection R156-61-102(4), an on-the-job training program is one that:

(1) includes only individuals who have completed all courses required for graduation in a doctoral degree that satisfies the licensure requirements under Title 58, Chapter 61 and these rules;

(2) starts immediately upon completion of all courses required for graduation;

(3) ends no later than 45 days from the date it begins, or upon licensure, whichever is earlier;

(4) may not be extended or used a second time;

(5) is completed while the individual is an employee of a public or private agency engaged in the practice of psychology; and

(6) is supervised by an individual who:

(a) is licensed under Title 58, Chapter 61; and

(b) conducts supervision at least weekly on circumstances where supervisor and supervisee are physically present in the same room at the same time.

KEY: licensing, psychologists

Date of Enactment or Last Substantive Amendment:
[November 7, 2013]2015

Notice of Continuation: January 13, 2014

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-61-101

**Commerce, Occupational and
Professional Licensing
R156-73
Chiropractic Physician Practice Act
Rule**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38963

FILED: 11/20/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and Chiropractic Physician Licensing Board reviewed the rule and determined changes need to be made. The purpose of this filing is to clarify responsibilities concerning pre-paid services and addressing current practices which may be hazardous to the public safety or welfare. The proposed amendments also clarify certain unprofessional conduct and continuing education standards. The filing also makes corrections in examination requirements and provides new definitions.

SUMMARY OF THE RULE OR CHANGE: In Section R156-73-102, the proposed amendments add definitions used in reference to continuing education standards and medical retainer agreements. In Section R156-73-302b, the proposed amendments correct the examinations referenced by the National Board of Chiropractic Examiners as the exam provider and delete the Special Purposes Examination for Chiropractic (SPEC) as an examination meeting the qualifications for licensure. In Section R156-73-303b, proposed amendments add an additional sponsorship or approval organization for continuing education. The proposed amendments also make changes to uniformly reference organizations by their acronyms. In Section R156-73-501, the proposed amendments clarify unprofessional conduct relating to billing practices and specify adopted professional standards. Section R156-73-501a is new and is added to clarify standards for billing practices involving medical retainer agreements (pre-paid services).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-73-101 and Subsection 58-1-106(1) (a) and Subsection 58-1-202(1)(a)

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds Professional Standards Adopted by the Utah Chiropractic Physicians Association, published by Utah Chiropractic Physicians Association, 06/13/2014

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$75 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 apply only to licensed chiropractic physicians and to applicants for licensure in that classification. As a result, the proposed amendments do not apply to local governments.

- ◆ **SMALL BUSINESSES:** The proposed amendments apply only to licensed chiropractic physicians and to applicants for licensure in that classification. A licensed chiropractic physician's office may qualify as a small business. Compliance with the billing practices may result in a cost to business. The Division is not able to determine an exact cost due to the varying circumstances or frequency involving billing practices.

- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments apply only to licensed chiropractic physicians and to applicants for licensure in that classification. Some of the proposed changes will clarify the licensee's financial responsibilities for the benefit and safety of the public.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments apply only to licensed chiropractic physicians and to applicants for licensure in that classification. Compliance with the billing practices amendments may result in an unknown cost to a chiropractic physician's business. The Division is not able to determine an exact cost due to the varying circumstances or frequency involving billing practices. The proposed amendments may result in increased availability of qualified continuing education, thus lowering continuing education costs for chiropractic physicians. Also, no cost is associated with the association professional standards which are being incorporated by reference as the standards are available on the association's website.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In addition to making technical corrections, this filing approves the Accreditation Council for Continuing Medical Education (ACCME) as a continuing education provider and amends the unprofessional conduct section to reflect updated industry standards and to respond to the industry practice of accepting or requiring advance payment for treatments that are anticipated to be performed at a future date. In order to comply with the rule regarding advance payment, a business might have to alter its billing practices. Any attendant costs will vary and cannot be estimated.

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:

♦ Dane Ishihara by phone at 801-530-7632, by FAX at 801-530-6511, or by Internet E-mail at dishihara@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2015

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 01/08/2015 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 464, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2015

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.**R156-73. Chiropractic Physician Practice Act Rule.****R156-73-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 73, as used in Title 58, Chapters 1 and 73, or this rule:

(1) "ACCME" means the Accreditation Council for Continuing Medical Education.

(2) "CCE" means the Council on Chiropractic Education, Inc.

(3) "Clinical acupuncture" means the application of mechanical, thermal, manual, and/or electrical stimulation of acupuncture points and meridians, including the insertion of needles, by a chiropractic physician that has demonstrated competency and training by completing a recognized course that is sponsored by an institution or organization approved to sponsor continuing education, as defined in Section R156-73-303b.

(4) "Distance learning" means the acquisition of knowledge and skills through information and instruction encompassing all technologies and other forms of learning at a distance, including internet, audio/visual recordings, mail or other correspondence.

(5) "FCLB" means the Federation of Chiropractic Licensing Boards.

(6) "Indirect supervision" means the supervising licensed chiropractic physician shall be available for immediate voice contact by telephone, radio, or other means and shall provide daily face to face consultation and review of cases at the chiropractic facility for the chiropractic intern, temporarily licensed or unlicensed person being supervised.

(7) "Joint mobilization", as used in Subsection 58-73-601(2)(c)(ii)(B) means passive movements done by another person, applied as a series of stretches or repetitive movements to individual or combinations of joints, not to exceed the end range of motion and stopping short of the articular elastic barrier.

(8) "Medical retainer agreement", as used in Section R156-73-501a, is as defined in Utah Code Annotated Section 31A-4-106.5.

(9) "NBCE" means the National Board of Chiropractic Examiners.

(10) "PACE" means Providers of Approved Continuing Education sponsored by the Federation of Chiropractic Licensing Boards.

(11) "Preceptor" means a licensed chiropractic physician who is a supervisor of interns and externs in the professional practice of chiropractic.

(12) "Preceptorship" means a supervised training program established by a written contract between a chiropractic college or university whose program or institution is accredited by the Council on Chiropractic Education, Inc., and a licensee for the purpose of providing chiropractic training to a student enrolled in the chiropractic college or university while under the supervision of a licensee.

(13) "Unprofessional conduct", as defined in Title 58, Chapters 1 and 73, is further defined in accordance with Subsection 58-1-203(5), in Section R156-73-501.

R156-73-302b. Qualifications for Licensure - Examination Requirements.

(1) In accordance with Subsection 58-73-302(1)(f)(i), the approved written clinical competency examination is the National Chiropractic Board Part ~~[3 or the Special Purposes Examination for Chiropractic (SPEC)]~~ administered by the National Board of Chiropractic Examiners. The passing score shall be established by the National Board of Chiropractic Examiners.

(2) In accordance with Subsection 58-73-302(1)(f)(iii), the approved practical examination is the National Chiropractic Board Part ~~[4]~~ (practical examination) administered by the National Board of Chiropractic Examiners. The passing score shall be established by the National Board of Chiropractic Examiners.

R156-73-303b. Continuing Education - Standards.

(1) The standards for continuing education are as follows:

(a) ~~[1]~~ The content must be relevant to chiropractic practice and consistent with the laws and rules of this state~~;~~.

(b) ~~[1]~~ The course must be under the sponsorship of or approved by:

(i) a chiropractic college or university whose doctor of chiropractic program is accredited by ~~the Council on Chiropractic Education, Inc.]~~ CCE;

(ii) a professional or nonprofit organization or association representing a licensed profession that has open membership and election of officers whose program objectives relate to the practice of chiropractic;

(iii) the licensing agency of Utah or another state~~;~~~~[-or]~~

(iv) PACE; or

(v) ACCME.

(c) ~~[1]~~ Learning objectives must be reasonably and clearly stated~~;~~.

(d) ~~[1]~~ Teaching methods must be clearly stated and appropriate~~;~~.

(e) ~~[1]~~ Faculty must be qualified, both in experience and in teaching expertise~~;~~.

(f) ~~[1]~~ Documentation of attendance must be provided~~;~~.

(g) ~~[1]~~ There shall be no more than four clock hours related to chiropractic practice marketing or practice building~~;~~.

(h) ~~(h)~~ No more than 10 hours of continuing education, in each two year period of licensure, may be by distance learning.

(2) A licensee shall be responsible for maintaining competent records of completed continuing education for a period of two years after close of the two year period to which the records pertain.

(3) The board may, after review, waive the continuing education requirements for a licensee presenting sufficient evidence of hardship or illness or other reason making it impossible or highly impractical for the licensee to attend or have attended a sufficient number of continuing education classes.

(4) As part of the 40 continuing education hours required every two years, a chiropractic physician, who provides acupuncture services as a part of their practice, shall complete 10 hours of acupuncture related continuing education.

R156-73-501. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) keeping the office, instruments, laboratory, equipment, appliances or supplies in an unsafe or unsanitary condition;

(2) engaging in advertising which is misleading because of omission of necessary material information, which contains false or misleading statements, or which otherwise operates to deceive;

~~(3) failing to comply with the Professional Standards Adopted by the Utah Chiropractic Physicians Association, dated June 13, 2014, which is hereby incorporated by reference;~~

~~(3)4(a) engaging in or abetting deceptive or fraudulent billing practices; or~~

~~(b) failing to comply with Section R156-73-501a, Standards for Medical Retainer Agreements;~~

~~(4)5 engaging in sexual contact with a patient, with or without patient consent, within 12 months of last treatment;~~

~~(5)6 engaging in sexual activities or contact with a former patient, with or without consent, after 12 months of last treatment if there is a risk of exploitation or potential harm to the former patient;~~

~~(6)7 engaging in behaviors in a patient/doctor relationship, including verbal, intended to sexually arouse any person or encourage sexual activity;~~

~~(7)8 failing to keep the division informed of a current address and telephone number;~~

~~(8)9 advertising acupuncture services or practicing clinical acupuncture techniques beyond the scope of the certification held;~~

~~(9)10 advertising as an "acupuncturist" either verbally or in print;~~

~~(10)11 failing to maintain responsibility for care, billing and documentation in a group practice, multidisciplinary practice or third-party ownership practice;~~

~~(11)12 engaging in any act or practice in a professional capacity which the licensee is not competent to perform through education or training;~~

~~(13) relying solely upon the "patient records" of another physician to determine medical necessity;~~

~~(12)14 administering injections through the skin, limited to subcutaneous or intramuscular administration, of any substances other than non-prescription drugs as defined in Subsections 58-17b-102(39)37) or non-controlled substances as defined in Subsection 58-37-2(1)(f)(ii);~~

~~(13)15 administering injections of non-prescription drugs or non-controlled substances without sufficient competency and training as demonstrated by the following:~~

~~(a) completion of a recognized course on injectables and their administration, under the sponsorship of or approved by an institution, organization or association meeting the continuing education standards as defined in Section R156-73-303b; and~~

~~(b) receiving a passing score on a certifying examination;~~

~~and/or~~
~~(14)16 delegating the administration of injections to a chiropractic assistant.~~

R156-73-501a. Medical Retainer Agreement.

~~(1) Any medical retainer agreement shall:~~

~~(a) comply with the requirements of Section 31A-4-106.5(1);~~

~~(b) state whether a refund will be calculated according to:~~

~~(i) a discounted fee schedule; or~~

~~(ii) a non-discounted fee schedule;~~

~~(c) pursuant to Subsection 31A-4-106.5(1)(a)(ii)(B), state that a patient may terminate the agreement at any time upon written notice to the chiropractic physician; and~~

~~(d) include the written acknowledgment of the patient or the patient's legal representative that the patient or patient's representative has read, understood, and received a copy of the medical retainer agreement.~~

~~(2) Except as provided in this Subsection (5), a licensed chiropractic physician shall hold all funds tendered in advance of service in a trust account.~~

~~(3) A licensed chiropractic physician may not draw any funds from the trust account unless a service described in the associated medical retainer agreement has been fully performed.~~

~~(4) A licensed chiropractic physician shall tender a refund to a patient or the patient's legal representative within 30 days of a written request for refund from the patient or the patient's legal representative.~~

~~(5) Funds collected under a medical retainer agreement for services totaling less than \$4,000 are exempt from the trust account requirement.~~

KEY: chiropractors, licensing, chiropractic physician

Date of Enactment or Last Substantive Amendment: ~~August 24, 2009~~2015

Notice of Continuation: March 14, 2011

Authorizing, and Implemented or Interpreted Law: 58-73-101; 58-1-106(1)(a); 58-1-202(1)(a)

Commerce, Real Estate
R162-2e-401
Unprofessional Conduct

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38971

FILED: 11/21/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add to the appraisal management company (AMC) administrative rules for unprofessional conduct the failure by an AMC to pay an appraiser within 45 days of the completion of an appraisal assignment.

SUMMARY OF THE RULE OR CHANGE: This amendment adds to the AMC administrative rules for unprofessional conduct the failure by an AMC to pay an appraiser within 45 days of the completion of an appraisal assignment.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-2e-103

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The proposed change requires AMCs to pay appraisers within 45 days of the completion of the appraisal assignment. Violations of this rule could result in enforcement action by the division against an AMC. The division has the staff and budget in place to administer this provision. It is not anticipated that the proposed amendment will affect those resources or result in any additional cost or savings to the state budget.

◆ **LOCAL GOVERNMENTS:** The proposed change requires AMCs to pay appraisers within 45 days of the completion of the appraisal assignment. Local government is not required to administer this rule. Little or no impact to local government is anticipated from the proposed amendment.

◆ **SMALL BUSINESSES:** The proposed change requires AMCs to pay appraisers within 45 days of the completion of the appraisal assignment. The only small businesses affected by this rule are possibly AMCs and appraisers who are accounted for under "Compliance Costs for Affected Persons" below. Otherwise, small business is not required to take any action as a result of this proposed amendment. Little or no fiscal impact to small business is expected from the proposed amendment.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed change requires AMCs to pay appraisers within 45 days of the completion of the appraisal assignment. No persons other than small businesses, businesses, or local governments are affected by this rule. No fiscal impact to persons other than small businesses, businesses, or local governments is expected from the proposed amendment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed change requires AMCs to pay appraisers within 45 days of the completion of the appraisal assignment. There is no compliance cost anticipated for affected persons. However, violations of this rule could result in enforcement

action by the division against an AMC. If an AMC is suspected of violating this rule and the division takes enforcement action against the AMC, the AMC would have compliance costs from responding to the enforcement action. The amount of the compliance cost will vary from case to case depending on the extent of the enforcement action taken and the response by the AMC.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:

As stated in the rule analysis, this filing requires an AMC to pay an appraiser within 45 days of accepting a completed appraisal. Any AMC that historically has held payments for longer than 45 days will be required to adjust its business practices in order to comply. Any associated costs will vary and cannot be estimated.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Justin Barney by phone at 801-530-6603, or by Internet E-mail at justinbarney@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2015

AUTHORIZED BY: Jonathan Stewart, Director

R162. Commerce, Real Estate.**R162-2e. Appraisal Management Company Administrative Rules.****R162-2e-401. Unprofessional Conduct.**

(1) An entity that is registered or required to be registered with the division as an AMC pursuant to Section 61-2e-201 commits unprofessional conduct if the entity:

(a) requires an appraiser to modify any aspect of the appraisal report, unless the modification complies with Section 61-2e-307;

(b) unless first prohibited by the client or applicable law, prohibits or inhibits an appraiser from contacting:

(i) the client;

(ii) a person licensed under Section 61-2c or Section 61-2f;

or

(iii) any other person with whom the appraiser reasonably needs to communicate in order to obtain information necessary to complete a credible appraisal report;

(c) requires the appraiser to do anything that does not comply with:

- (i) USPAP; or
- (ii) assignment conditions and certifications required by the client;
- (d) makes any portion of the appraiser's fee or the AMC's fee contingent on a favorable outcome, including but not limited to:
- (i) a loan closing; or
- (ii) a specific dollar amount being achieved by the appraiser in the appraisal report;
- (e) requests, for the purpose of facilitating a mortgage loan transaction,
- (i) a broker price opinion; or
- (ii) any other real property price or value estimation that does not qualify as an appraisal;
- (f) charges an appraiser:
- (i) for a service not actually performed; or
- (ii) for a fee or cost that:
- (A) is not accurately disclosed pursuant to Subsection R162-2e-304(1)(a)(ii); or
- (B) exceeds the actual cost of a service provided by a third party;
- (g) fails to pay the appraiser's fee within 45 days of completion of the appraisal assignment;
- ~~(g)~~(h) uses or retains an employee to complete an appraisal assignment without first disclosing to the client that the appraiser is an employee of the company, such that the company is acting in the capacity of an appraisal firm rather than as an AMC pursuant to Utah Code Subsection 61-2e-102(4); or
- ~~(h)~~(i) when acting in the capacity of an AMC pursuant to Utah Code Subsection 61-2e-102(4), uses or retains an employee appraiser to complete an appraisal assignment.
- (2) An AMC commits unprofessional conduct and creates a violation by the appraiser of R162-2g-502b(1)(f) if the AMC requires the appraiser to:
- (a) accept full payment; and
- (b) remit a portion of the full payment back to the AMC.

KEY: administrative proceedings, appraisal management company, conduct, registration

Date of Enactment or Last Substantive Amendment: [August 28, 2013] 2015

Authorizing, and Implemented or Interpreted Law: 61-2e-102(4); 61-2e-103; 61-2e-307; 61-2e-305; 61-2e-402(1)

Commerce, Real Estate
R162-2f-206
 Certification of Continuing Education
 Course

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 38972
 FILED: 11/21/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to add to the real estate continuing education core topics the topic of water law, rights, and transfer.

SUMMARY OF THE RULE OR CHANGE: This proposed change will add to the real estate continuing education core topics the topic of water law, rights, and transfer.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-2f-206

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The proposed change adds to the real estate continuing education core topics the topic of water law, rights, and transfer. The division has the staff and budget in place to administer this provision. It is not anticipated that the proposed amendment will affect those resources or result in any additional cost or savings to the state budget.

◆ **LOCAL GOVERNMENTS:** Local governments are not required to comply with or enforce the real estate rules. No fiscal impact to local government is expected from the proposed amendment.

◆ **SMALL BUSINESSES:** The proposed amendment changes the topic of water law, rights and transfer from an elective topic to a core topic. Small business is not required to take any action as a result of this proposed amendment. No additional continuing education course is required by the proposed amendment. Little or no fiscal impact to small business is expected from the proposed amendment.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendment changes the real estate continuing education topic of water law, rights and transfer from an elective topic to a core topic. Continuing education providers are not required to change their current course offerings and individual licensees of the division are not required to take any additional courses. Little or no fiscal impact to persons other than small businesses, businesses, or local government entities is expected from the proposed amendment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Individual real estate licensees are not required by the proposed amendment to change the continuing education courses in order to renew their license. The only change from the proposed amendment is to allow water law, rights and transfer as a core topic rather than as an elective topic. The proposed amendment does not require a licensee to take a course on water law, rights and transfer. Little or no fiscal impact to affected persons is expected from the proposed amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As stated in the rule analysis, this filing expands the core

continuing education topic list to include water law, rights and transfer. No fiscal impact to businesses is anticipated.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Justin Barney by phone at 801-530-6603, or by Internet E-mail at justinbarney@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2015

AUTHORIZED BY: Jonathan Stewart, Director

R162. Commerce, Real Estate.

R162-2f. Real Estate Licensing and Practices Rules.

R162-2f-206c. Certification of Continuing Education Course.

(1)(a) The division may not award continuing education credit for a course that is advertised in Utah to real estate licensees unless the course is certified prior to its being taught.

(b) A licensee who completes a course that is not required to be certified pursuant to this Subsection (1)(a), and who believes that the course satisfies the objectives of continuing education pursuant to this Subsection (2)(f), may apply to the division for an award of continuing education credit after successfully completing the course.

(2) To certify a continuing education course for traditional education, a person shall, no later than 30 days prior to the date on which the course is proposed to begin, provide the following to the division:

- (a) name and contact information of the course provider;
- (b) name and contact information of the entity through which the course will be provided;
- (c) description of the physical facility where the course will be taught;
- (d) course title;
- (e) number of credit hours;
- (f) statement defining how the course will meet the objectives of continuing education by increasing the participant's:
 - (i) knowledge;
 - (ii) professionalism; and
 - (iii) ability to protect and serve the public;
- (g) course outline including a description of the subject matter covered in each 15-minute segment;
- (h) a minimum of three learning objectives for every three hours of class time;
 - (i) name and certification number of each certified instructor who will teach the course;
 - (j) copies of all materials to be distributed to participants;

(k) signed statement in which the course provider and instructor(s):

- (i) agree not to market personal sales products;
- (ii) allow the division or its representative to audit the course on an unannounced basis; and
- (iii) agree to upload, within ten business days after the end of a course offering, to the database specified by the division, the following:

- (A) course name;
- (B) course certificate number assigned by the division;
- (C) date(s) the course was taught;
- (D) number of credit hours; and
- (E) names and license numbers of all students receiving continuing education credit;
 - (l) procedure for pre-registration;
 - (m) tuition or registration fee;
 - (n) cancellation and refund policy;
 - (o) procedure for taking and maintaining control of attendance during class time;
 - (p) sample of the completion certificate;
 - (q) nonrefundable fee for certification as required by the division; and
 - (r) any other information the division requires.
- (3) To certify a continuing education course for distance education, a person shall:

- (a) comply with this Subsection (2);
- (b) submit to the division a complete description of all course delivery methods and all media to be used;
- (c) provide course access for the division using the same delivery methods and media that will be provided to the students;
- (d) describe specific frequent and periodic interactive events included in the course and appropriate to the delivery method that will contribute to the students' achievement of the stated learning objectives and encourage student participation;
- (e) describe how and when certified instructors will be available to answer student questions; and
- (f) provide an attestation from the sponsor of the availability and adequacy of the equipment, software, and other technologies needed to achieve the course's instructional claims.

(4) Minimum standards.

(a) Except for distance education courses, all courses shall be taught in an appropriate classroom facility and not in a private residence.

(b) The minimum length of a course shall be one credit hour.

(c) Except for online courses, the procedure for taking attendance shall be more extensive than having the student sign a class roll.

(d) The completion certificate shall allow for entry of the following information:

- (i) licensee's name;
- (ii) type of license;
- (iii) license number;
- (iv) date of course;
- (v) name of the course provider;
- (vi) course title;
- (vii) number of credit hours awarded;
- (viii) course certification number;
- (ix) course certification expiration date;

- (x) signature of the course sponsor; and
- (xi) signature of the licensee.
- (5) Certification procedures.
- (a) Upon receipt of a complete application for certification of a continuing education course, the division shall, at its own discretion, determine whether a course qualifies for certification.
- (b) Upon determining that a course qualifies for certification, the division shall determine whether the content satisfies core or elective requirements.
 - (c) Core topics include the following:
 - (i) state approved forms and contracts;
 - (ii) other industry used forms or contracts;
 - (iii) ethics;
 - (iv) agency;
 - (v) short sales or sales of bank-owned property;
 - (vi) environmental hazards;
 - (vii) property management;
 - (viii) prevention of real estate and mortgage fraud;
 - (ix) federal and state real estate laws;
 - (x) division administrative rules; ~~and~~
 - (xi) broker trust accounts; and
 - (xii) water law, rights and transfer.
 - (d) If a course regarding an industry used form or contract is approved by the division as a core course, the provider of the course shall:
 - (i) obtain authorization to use the form(s) or contract(s) taught in the course;
 - (ii) obtain permission for licensees to subsequently use the form(s) or contract(s) taught in the course; and
 - (iii) if applicable, arrange for the owner of each form or contract to make it available to licensees for a reasonable fee.
 - (e) Elective topics include the following:
 - (i) real estate financing, including mortgages and other financing techniques;
 - (ii) real estate investments;
 - (iii) real estate market measures and evaluation;
 - (iv) real estate appraising;
 - (v) market analysis;
 - (vi) measurement of homes or buildings;
 - (vii) accounting and taxation as applied to real property;
 - (viii) estate building and portfolio management for clients;
 - (ix) settlement statements;
 - (x) real estate mathematics;
 - (xi) real estate law;
 - (xii) contract law;
 - (xiii) agency and subagency;
 - (xiv) real estate securities and syndications;
 - (xv) regulation and management of timeshares, condominiums, and cooperatives;
 - (xvi) resort and recreational properties;
 - (xvii) farm and ranch properties;
 - (xviii) real property exchanging;
 - (xix) legislative issues that influence real estate practice;
 - (xx) real estate license law;
 - (xxi) division administrative rules;
 - (xxii) land development;
 - (xxiii) land use;
 - (xxiv) planning and zoning;
 - (xxv) construction;
 - (xxvi) energy conservation in buildings;
 - (xxvii) water rights;
 - (xxviii) landlord/tenant relationships;
 - (xxix) property disclosure forms;
 - (xxx) Americans with Disabilities Act;
 - (xxxi) fair housing;
 - (xxxii) affirmative marketing;
 - (xxxiii) commercial real estate;
 - (xxxiv) tenancy in common;
 - (xxxv) professional development;
 - (xxxvi) business success;
 - (xxxvii) customer relation skills;
 - (xxxviii) sales promotion, including:
 - (A) salesmanship;
 - (B) negotiation;
 - (C) sales psychology;
 - (D) marketing techniques related to real estate knowledge;
 - (E) servicing clients; and
 - (F) communication skills;
 - (xxxix) personal and property protection for licensees and their clients;
 - (xl) any topic that focuses on real estate concepts, principles, or industry practices or procedures, if the topic enhances licensee professional skills and thereby advances public protection and safety;
 - (xli) any other topic that directly relates to the real estate brokerage practice and directly contributes to the objective of continuing education; and
 - (xlii) technology courses that utilize the majority of the time instructing students how the technology:
 - (A) directly benefits the consumer; or
 - (B) enables the licensee to be more proficient in performing the licensee's agency responsibilities.
 - (f) Unacceptable topics include the following:
 - (i) offerings in mechanical office and business skills, including:
 - (A) typing;
 - (B) speed reading;
 - (C) memory improvement;
 - (D) language report writing;
 - (E) advertising; and
 - (F) technology courses with a principal focus on technology operation, software design, or software use;
 - (ii) physical well-being, including:
 - (A) personal motivation;
 - (B) stress management; and
 - (C) dress-for-success;
 - (iii) meetings held in conjunction with the general business of the licensee and the licensee's broker, employer, or trade organization, including:
 - (A) sales meetings;
 - (B) in-house staff meetings or training meetings; and
 - (C) member orientations for professional organizations;
 - (iv) courses in wealth creation or retirement planning for licensees; and
 - (v) courses that are specifically designed for exam preparation.

(g) If an application for certification of a continuing education course is denied by the division, the person making application may appeal to the commission.

(6)(a) A continuing education course certification expires 24 months from the date of issuance and must be renewed before the expiration date in order to remain active.

(b) To renew a continuing education course certification, an applicant shall:

(i) complete a renewal application as provided by the division; and

(ii) pay a nonrefundable renewal fee.

(c) To reinstate an expired continuing education course certification within 30 days following the expiration date, a person shall:

(i) comply with all requirements for a timely renewal; and

(ii) pay a nonrefundable late fee.

(d) To reinstate an expired continuing education course certification after 30 days and within six months following the expiration date, a person shall:

(i) comply with all requirements for a timely renewal; and

(ii) pay a non-refundable reinstatement fee.

(e) A certification that is expired for more than six months may not be reinstated. To obtain a certification, a person must apply as a new applicant.

(f) If a deadline specified in this Subsection (6) falls on a day when the division is closed for business, the deadline shall be extended to the next business day.

KEY: real estate business, operational requirements, trust account records, notification requirements

Date of Enactment or Last Substantive Amendment: [February 25, 2014]2015

Authorizing, and Implemented or Interpreted Law: 61-2f-103(1); 61-2f-105; 61-2f-203(1)(e); 61-2f-206(3); 61-2f-206(4)(a); 61-2f-306; 61-2f-307

**Health, Children's Health Insurance
Program
R382-10-18
Enrollment Period**

**NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 38973
FILED: 11/21/2014**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to comply with provisions of the Patient Protection and Affordable Care Act in regard to completing an ex parte review for the Children's Health Insurance Program (CHIP).

SUMMARY OF THE RULE OR CHANGE: This amendment allows CHIP coverage to end if the eligibility agency

completes an ex parte review and requests verification of health coverage, and the enrollee fails to verify creditable health coverage or is determined to have access to health insurance.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Pub. L. No. 111-148 and Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no impact to the state budget because this amendment only changes the method of review in determining CHIP coverage.

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

◆ **SMALL BUSINESSES:** There is no impact to small businesses because this amendment only changes the method of review in determining CHIP coverage. It does not impose new costs or requirements.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to CHIP providers and to CHIP enrollees because this amendment only changes the method of review in determining CHIP coverage. It does not impose new costs or requirements and does not create out-of-pocket expenses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no impact to a single CHIP provider or to a CHIP enrollee because this amendment only changes the method of review in determining CHIP coverage. It does not impose new costs or requirements and does not create out-of-pocket expenses.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change has no impact on business because it does not change eligibility requirements or include additional procedures or costs.

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

HEALTH
CHILDREN'S HEALTH INSURANCE PROGRAM
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 01/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 02/01/2015

AUTHORIZED BY: David Patton, PhD, Executive Director

R382. Health, Children's Health Insurance Program.

R382-10. Eligibility.

R382-10-18. Enrollment Period.

(1) Subject to the provisions in Subsection R382-10-18(2) and (3), a child eligible for CHIP enrollment receives 12 months of coverage that begins with the effective month of enrollment. If the eligibility agency allows a grace enrollment period that extends into the month before the application month, the days of the grace enrollment period do not count as a month in the 12-month enrollment period.

(2) CHIP coverage may end before the end of the 12-month certification period if the enrollee[child]:

- (a) turns 19 years of age before the end of the 12-month enrollment period;
- (b) moves out of the state;
- (c) becomes eligible for Medicaid;
- (d) begins to be covered under a group health plan or other health insurance coverage;
- (e) enters a public institution or an institution for mental diseases; or
- (f) does not pay the quarterly premium.

(3) If the eligibility agency completes a review as defined in 42 CFR 457.343 and requests verification of health coverage, CHIP coverage will end if the enrollee:

- (a) fails to respond timely to a request to verify creditable health coverage; or
- (b) is determined to have access to health insurance coverage as defined in Subsection R382-10-10(3).

~~(3)4~~ Certain changes affect an enrollee's eligibility during the 12-month certification period.

(a) If an enrollee gains access to health insurance under an employer-sponsored plan or COBRA coverage, the enrollee may switch to UPP. The enrollee must report the health insurance within ten calendar days of enrolling, or within ten calendar days of when coverage begins, whichever is later. The employer-sponsored plan must meet UPP criteria.

(b) If income decreases, the enrollee may report the income and request a redetermination. If the change makes the enrollee eligible for Medicaid, the eligibility agency shall end CHIP eligibility and enroll the child in Medicaid.

(c) If income increases during the certification period, eligibility remains unchanged through the end of the certification period.

~~(4)5~~ The agency shall redetermine eligibility if a family reports a decrease in income and requests a redetermination during the certification period. A decrease in the premium is effective as follows:

- (a) The premium change is effective the month of report if income decreased that month and the family provides timely verification of income;
- (b) The premium change is effective the month following the report month if the decrease in income is for the following month and the family provides timely verification of income;
- (c) The premium change is effective the month in which verification of the decrease in income is provided, if the family does not provide timely verification of income.

~~(5)6~~ Failure to make a timely report of a reportable change may result in an overpayment of benefits.

KEY: children's health benefits

Date of Enactment or Last Substantive Amendment: ~~[June 1, 2014]~~**2015**

Notice of Continuation: May 9, 2013

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-40

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-310-7
Household Composition and Income
Provisions**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38984

FILED: 12/01/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: By legislative request, the income limit for the Primary Care Network (PCN) program will decrease from 100% of the federal poverty level (FPL) to 95% of FPL. This decrease will allow those PCN recipients who lose coverage due to the income limit change to receive better, more comprehensive medical coverage through the Federally Facilitated Marketplace (FFM).

SUMMARY OF THE RULE OR CHANGE: This amendment changes the current PCN income limit from 100% of FPL to 95% of FPL to allow those individuals losing PCN coverage to attain better medical coverage through the FFM.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Pub. L. No. 111-148 and Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are minimal savings to the state budget with some individuals losing PCN coverage, but there is no data to estimate what the total savings will be. This change affects less than 500 PCN recipients.
- ◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they do not fund or provide PCN services to PCN recipients.
- ◆ **SMALL BUSINESSES:** There is no impact because this change does not impose new costs or requirements on small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact because this change does not impose

new costs or requirements on PCN providers. PCN recipients, however, may see some savings as they become eligible for better medical coverage through the FFM.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this change does not impose new requirements on a single PCN provider, and a PCN recipient will only become eligible for better medical coverage through the FFM.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change does not impose additional costs or requirements upon PCN providers and therefore will have no impact on business.

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 01/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 02/01/2015

AUTHORIZED BY: David Patton, PhD, Executive Director

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

R414-310. Medicaid Primary Care Network Demonstration Waiver.

R414-310-7. Household Composition and Income Provisions.

(1) The eligibility agency determines household composition and countable household income according to the provisions in R414-304-5.

(2) For an individual to be eligible to enroll in PCN, countable MAGI-based income for the individual must be equal to or less than ~~[100]~~95% of the federal poverty guideline for the applicable household size.

KEY: Medicaid, primary care, demonstration

Date of Enactment or Last Substantive Amendment: ~~[April 21, 2014]~~2015

Notice of Continuation: June 4, 2012

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

Health, Family Health and Preparedness, Licensing **R432-2-6** Application

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38982

FILED: 11/26/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to delete the bed banking subsections in the rule. These subsections are no longer needed as processes have changed.

SUMMARY OF THE RULE OR CHANGE: Subsections R432-2-6(6) and R432-2-6(7) are being deleted. The Health Facility Committee reviewed and approved this rule amendment on 11/12/2014.

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

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no impact to the state budget because the changes in this rule do not change current practice.

♦ **LOCAL GOVERNMENTS:** There is no impact to local governments because the changes in this rule do not change current practice.

♦ **SMALL BUSINESSES:** There is no impact to small businesses because the changes in this rule do not change current practice.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to businesses, individuals, local governments, and persons that are not small businesses because the changes in this rule do not change current practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no impact to affected persons because the changes in this rule do not change current practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendment deletes subsections relating to the practice of "banking beds". There will be no impact in business because the practice is no longer used by the industry.

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 01/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2015

AUTHORIZED BY: David Patton, PhD, Executive Director

R432. Health, Family Health and Preparedness, Licensing.
R432-2. General Licensing Provisions.
R432-2-6. Application.

(1) An applicant for a license shall file a Request for Agency Action/License Application with the Utah Department of Health on a form furnished by the Department.

(2) Each applicant shall comply with all zoning, fire, safety, sanitation, building and licensing laws, regulations, ordinances, and codes of the city and county in which the facility or agency is located. The applicant shall obtain the following clearances and submit them as part of the completed application to the licensing agency:

(a) A certificate of fire clearance from the State Fire Marshal or designated local fire authority certifying compliance with local and state fire codes is required with initial and renewal application, change of ownership, and at any time new construction or substantial remodeling has occurred.

(b) A satisfactory Food Services Sanitation Clearance report by a local or state sanitarian is required for facilities providing food service at initial application and upon a change of ownership.

(c) Certificate of Occupancy from the local building official at initial application, change of location and at the time of any new construction or substantial remodeling.

(3) The applicant shall submit the following:

(a) a list of all officers, members of the boards of directors, trustees, stockholders, partners, or other persons who have a greater than 25 percent interest in the facility;

(b) the name, address, percentage of stock, shares, partnership, or other equity interest of each person; and

(c) a list, of all persons, of all health care facilities in the state or other states in which they are officers, directors, trustees, stockholders, partners, or in which they hold any interest;

(4) The applicant shall provide the following written assurances on all individuals listed in R432-2-6(3):

(a) None of the persons has been convicted of a felony;

(b) None of the persons has been found in violation of any local, state, or federal law which arises from or is otherwise related to the individual's relationship to a health care facility; and

(c) None of the persons who has currently or within the five years prior to the date of application had previous interest in a licensed health care facility that has been any of the following:

(i) subject of a patient care receivership action;

(ii) closed as a result of a settlement agreement resulting from a decertification action or a license revocation;

(iii) involuntarily terminated from participation in either Medicaid or Medicare programs; or

(iv) convicted of patient abuse, neglect or exploitation where the facts of the case prove that the licensee failed to provide adequate protection or services for the person to prevent such abuse.

~~_____ (6) The licensee may apply to designate any number of beds within the facility's licensed capacity as banked beds on a form provided by the Department.~~

~~_____ (a) The licensee may apply to designate beds as banked no later than December 1st of each year or upon application for license renewal.~~

~~_____ (b) The Department shall thereafter show the facility as having an operational bed capacity equal to the licensed capacity minus any beds banked by the facility.~~

~~_____ (c) Banking beds shall not alter the licensed capacity of a facility.~~

~~_____ (7) The licensee may apply to return any number of banked beds to operational bed capacity on a form provided by the Department.~~

~~_____ (a) The licensee may apply to return banked beds to operational capacity no later than December 1 of each year or upon application for license renewal.~~

~~_____ (b) The Department shall thereafter show the facility as having an operational bed capacity equal to the licensed capacity minus any beds still banked by the facility.~~

~~_____ (c) Beds previously banked that have been returned to operational capacity must meet the construction and life safety codes that were applicable to the facility at the time the beds were last banked.~~

] ([8]5) The requirements contained in Utah Code Section 26-21-23(5)(a) shall be met if a nursing care facility filed a notice of intent or application with the Department and paid a fee relating to a proposed nursing care facility prior to March 1, 2007.

([9]6) The requirements contained in Utah Code Section 26-21-23(5)(b) shall be met if a nursing care facility complies with the requirements of R432-4-14(4) and R432-4-16 on or before July 1, 2008.

KEY: health care facilities

Date of Enactment or Last Substantive Amendment: [January 24, 2014]2015

Notice of Continuation: August 12, 2013

Authorizing, and Implemented or Interpreted Law: 26-21-9; 26-21-11; 26-21-12; 26-21-13

**Natural Resources, Parks and
 Recreation
 R651-214
 Temporary Registration**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38970

FILED: 11/21/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This is a rule cleanup to correct a reference in Rule R651-213 titled Dealer Registration and Numbering which was previously modified. The current rule misdirects dealers to the Division of Parks and Recreation rather than the Division of Motor Vehicles.

SUMMARY OF THE RULE OR CHANGE: This rule makes a reference to Rule R651-213 and clarifies where dealers should obtain applications for temporary registrations. The current rule misdirects dealers to the Division of Parks and Recreation rather than the Division of Motor Vehicles.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 73-18-7(18)(d)

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There is no anticipated cost or savings to the state budget because this is a rule cleanup only and will direct dealers to the appropriate division to obtain applications for temporary registrations.
- ◆ LOCAL GOVERNMENTS: There is no anticipated cost or savings to the local government as it is a rule cleanup only.
- ◆ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses as it is a rule cleanup only.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This does not affect other persons as it is a rule cleanup only.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. It is a rule cleanup only and no costs are associated with the change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule should clarify a convenient method for businesses to get temporary registrations.

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

NATURAL RESOURCES
PARKS AND RECREATION
ROOM 116
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2015

AUTHORIZED BY: Fred Hayes, Director

R651. Natural Resources, Parks and Recreation.**R651-214. Temporary Registration.****R651-214-1. Temporary Registration.**

(1) A vessel dealer may apply to the Division of Motor Vehicles for temporary registrations to be used on motorboats or sailboats sold by his business. [~~The application to obtain temporary registrations is the same as outlined in Section R651-213-1.~~]

(2) Each temporary registration will be valid for a period not to exceed 30 days from date of issue.

(3) A temporary registration will not be valid on any motorboat or sailboat held in the dealer's inventory for sale or any motorboat or sailboat not sold by the same dealer who issued the registration.

(4) A dealer shall not issue more than one temporary registration for any motorboat or sailboat.

(5) A dealer who obtains temporary registrations will be responsible for their issuance and is required to maintain records of each registration obtained and issued. Dealer records will contain a description of the vessel sold, the name and address of the purchaser, and the date issued.

(6) Temporary registration records kept by the dealer shall be made available for inspection and audit by authorized agents of the Division of Motor Vehicles during regular business hours.

(7) If the Division of Motor Vehicles has reasonable grounds to believe that a dealer has failed to comply with any of the above provisions, after notice to the dealer and a hearing, temporary registration issuance privileges may be canceled. Upon cancellation, the dealer will surrender all unissued temporary registrations to the Division of Motor Vehicles within 15 days.

(8) Temporary Operating Authority

(a) The division, or its authorized representatives, may grant a temporary permit to operate a vessel for which:

(i) application for registration has been made, or, in the case of a newly purchased vessel, will be made

(ii) evidence of ownership is provided; and

(iii) the proper fees have been paid.

(b) The temporary permit allows the vessel to be operated pending complete registration by displaying the temporary permit.

(c) If a vessel is operated on a temporary permit issued under this section, that vessel is subject to all other statutes, rules, and regulations intended to control the use and operation of vessels on the waterways.

(9) Relocation Permit

(a) Under rules made by the administrator, relocation permits may be issued by the division or its authorized representatives.

(b) Relocation permits allow use of the waterways for a time period not to exceed 96 hours.

(c) The division or its authorized representative may issue relocation permits without requiring a property tax clearance for the vessel on which the permit is to be used.

(d) Relocation permits allow for the purpose of testing for mechanical or seaworthiness of vessels.

(e) If a vessel is operated on a relocation permit under this section, that vessel is subject to all other statutes, rules, and regulations intended to control the use and operation of vessels on the waterways.

KEY: boating

Date of Enactment or Last Substantive Amendment: ~~[July 8, 2013]~~ **January 21, 2015**

Notice of Continuation: February 10, 2011

Authorizing, and Implemented or Interpreted Law: 73-18-7(18)
(d)

Public Safety, Peace Officer Standards and Training **R728-506** Canine Body Armor Restricted Account

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 38983

FILED: 11/28/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish the required documentation a law enforcement agency must provide when applying to the division to receive funds under Section 53-16-301 for canine body armor.

SUMMARY OF THE RULE OR CHANGE: This rule establishes a process law enforcement agencies may use to apply for funds generated from the Canine Body Armor Restricted Account. The monies in this account are to be utilized by law enforcement agencies to purchase body armor used for police service canines. This rule outlines the application process law enforcement administrators are to follow in order to be considered eligible to receive funds from the Canine Body Armor Restricted Account as described in Section 53-16-301.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-16-201 and Section 53-16-301 and Section 53-16-302

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** State law enforcement agencies who qualify for to receive Canine Body Armor Restricted Account funds will not need to pay for the canine body armor from department funds.

♦ **LOCAL GOVERNMENTS:** County and city agencies who qualify for to receive Canine Body Armor Restricted Account

funds will not need to pay for the canine body armor from department funds.

♦ **SMALL BUSINESSES:** Agencies choosing to apply for funding from the account will now have a funding source not previously available. These agencies may now purchase canine body armor from possible small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Business's that provide or can provide body armor for police service canines will now have a funding source to assist in paying for the body armor.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to persons affected by this new rule. The rule outlines a process agencies may follow at their option to receive funds from the account.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses because of this rule.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY, UT 84070
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kelly Sparks by phone at 801-256-2321, by FAX at 801-256-0600, or by Internet E-mail at ksparks@utah.gov
♦ Wade Breur by phone at 801-256-2329, or by Internet E-mail at wbreur@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2015

AUTHORIZED BY: Scott Stephenson, Director

**R728. Public Safety, Peace Officer Standards and Training.
R728-506. Canine Body Armor Restricted Account.
R728-506-1. Purpose.**

The purpose of this rule is to establish the required documentation a law enforcement agency must provide when applying to the division to receive funds under Section 53-16-301.

R728-506-2. Authority.

This rule is authorized by Section 53-16-302 which provides that the department shall make rules prescribing information that a law enforcement agency shall include with its application to obtain funds from the account.

R728-506-3. Definitions.

- (1) The terms used in this rule are defined in Section 53-1-102.
- (2) In addition:
 - (a) "account" means the Canine Body Armor Restricted Account;
 - (b) "agency" means a law enforcement agency;
 - (c) "awarded funds" means the funds appropriated by the department from the account;
 - (d) "department" means the Utah Department of Public Safety;
 - (e) "POST" means the Division of Peace Officer Standards and Training;
 - (f) "law enforcement administrator" means a police chief, sheriff, public safety director, or superintendent of a law enforcement agency; and
 - (g) "law enforcement work" means patrol functions.

R728-506-4. Application Process.

- (1) An agency that wishes to receive awarded funds may submit an application.
- (2) The application must be addressed to POST and contain the following:
 - (a) the application form, which is available from POST;
 - (b) a written cost estimate prepared by the seller;
 - (c) proof of purchase;

(i) if proof of purchase is not available at the time the agency submits the application, the agency must submit it within 90 days of purchasing the armor;

(d) the signature of the law enforcement administrator certifying the following:

(i) the agency meets the requirements listed in Section 53-16-301(4)(a);

(ii) the police service canine is trained for law enforcement patrol duties; and

(iii) the police service canine is used or will be used in patrol functions.

(3)(a) All applications must be submitted before the first day of November in order to be eligible for awarded funds from the current fiscal year.

(b) If no applications are received before the first day of November, the award funds shall remain in the account until the next fiscal year.

KEY: Canine Body Armor Restricted Account

Date of Enactment or Last Substantive Amendment: 2015

Authorizing, and Implemented or Interpreted Law: 53-16-302

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends January 14, 2015.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (.) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Division of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

From the end of the 30-day waiting period through April 14, 2015, an agency may notify the Division of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

The Changes in Proposed Rules Begin on the Following Page

**Environmental Quality, Radiation
Control
R313-17-4
Special Procedures for Decisions
Associated with Licenses for Uranium
Mills and Disposal of Byproduct
Material**

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 38770

FILED: 11/26/2014

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for filing this change in proposed rule is to address the well-reasoned and justified comments that were submitted about the original filing (DAR No. 38770, published in the September 1, 2014, Bulletin).

SUMMARY OF THE RULE OR CHANGE: A change in proposed rule is proposed to: 1) be more specific about a citation to federal law; 2) eliminate some confusing and duplicative language; 3) specify that the director of the Division of Radiation Control shall not be the hearing officer for the question and answer hearings established in the rule; and 4) clarify that administrative remedies through the question and answer hearing process must be exhausted in order to obtain review on appeal. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the September 1, 2014, issue of the Utah State Bulletin, on page 95. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 USC 2021(o)(3)(A)(ii) and Subsection 19-3-104(4)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The change will not result in any additional costs; the only significant change proposed is a procedural clarification.
- ◆ **LOCAL GOVERNMENTS:** If local government participates in a proceeding, it will not have any additional costs; the only significant change proposed is a procedural clarification.
- ◆ **SMALL BUSINESSES:** If a small business participates in a proceeding, it will not have any additional costs; the only significant change proposed is a procedural clarification.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No person will bear any additional costs; the only significant change proposed is a procedural clarification.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No regulated entity will bear any additional costs; the only significant change proposed is a procedural clarification.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No regulated entity will bear any additional costs; the only significant change proposed is a procedural clarification.

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

ENVIRONMENTAL QUALITY
RADIATION CONTROL
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ John Hultquist by phone at 801-536-4263, by FAX at 801-536-4250, or by Internet E-mail at jhultquist@utah.gov
- ◆ Laura Lockhart by phone at 801-536-0283, by FAX at 801-366-0292, or by Internet E-mail at llockhart@utah.gov
- ◆ Rusty Lundberg by phone at 801-536-4257, by FAX at 801-533-4097, or by Internet E-mail at rlundberg@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/14/2015

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2015

AUTHORIZED BY: Rusty Lundberg, Director

R313. Environmental Quality, Radiation Control.

R313-17. Administrative Procedures.

R313-17-4. Special Procedures for Decisions Associated with Licenses for Uranium Mills and Disposal of Byproduct Material.

- (1) Definitions. For purposes of this rule:
 - (a) "Byproduct material" has the same meaning as defined in 42 U.S.C. Section 2014(e)(2);
 - (b) "License" means a radioactive materials license for a uranium mill or disposal of byproduct material, including any ground water discharge permit incorporated in a license; and
 - (c) "Question and answer hearing" means the informal hearing described in paragraphs (3) through (5) held for the purpose of responding to questions from the public.
- (2) Scope. This rule R313-17-4 applies only to licensing activities that meet both of the following criteria:
 - (a) they are licensing activities described in R313-17-2(a)(i) (A) through (I); and

(b) they are for licenses or license amendments for uranium mills and disposal of byproduct materials.

(3) Opportunity for Question and Answer Hearing Prior to Director's Decision.

(a) For licensing actions that are subject to the scope of this rule, the division may, at its discretion, schedule a question and answer hearing at the time it proposes the action.

(b) If the division does not choose to schedule a question and answer hearing[session] at the time it proposes a licensing action, it shall provide notice to the public of an opportunity to request a question and answer hearing[session], and it shall schedule and hold a hearing[session] if there is a request from a member of the public.

(c) Notice of a hearing or an opportunity to request a hearing under this rule shall be made as provided in R313-17-3(5). Members of the public shall be given at least ten days to request a hearing.

(d) The division may combine the question and answer hearing with a licensing hearing held for the purpose of taking public comment on a proposed licensing action.

(4) Procedures Prior to Question and Answer Hearing.

(a) The division shall provide a notice of the question and answer hearing at least 30 days before the hearing. The notice shall also summarize the applicable procedures, including the obligation to provide questions in advance of the hearing.

(b) Any person who proposes to ask questions during the question and answer hearing shall submit the questions to the division. Questions must be received by the division by the deadline specified in the public notice, which shall be no fewer than 15 days after the notice of the question and answer hearing is posted. If a question relies on information that is not included in the licensing record, that information shall be submitted with the questions. The relevance of and the relevant portions of any supporting materials shall be described with reasonable specificity. Information submitted in accordance with this paragraph will become part of the record.

(c) If the Director determines that any of the questions submitted will not be answered during the question and answer hearing, as provided in paragraph (5)(f), the Director shall notify the person who submitted the questions prior to the hearing. Notification shall include a statement about the Director's reasons for the determination.

(5) Procedures for Question and Answer Hearing.

(a) The question and answer hearing shall ordinarily be held in the Department of Environmental Quality offices. Unless the question and answer hearing is held in a place near the proposed facility, the division shall provide an opportunity for the public to participate by telephone or other electronic means.

(b) The question and answer hearing ~~[session-]~~will ordinarily be scheduled for longer than three hours. The division may allocate time to those who have submitted questions after considering the number and nature of the questions submitted.

(c) A hearing officer who is not the director or a member of the director's staff shall manage the question and answer hearing. Representatives of the licensee and division staff shall attend the hearing.

(d) The question and answer hearing shall be recorded and transcribed. Alternatively, the division may elect to have a court reporter record and transcribe the hearing.

(e) The Director shall determine whether the initial and follow-up question will be answered by the applicant, by division staff,

or by both. Notwithstanding the Director's decision, the applicant may choose to respond to any question. After the response to a question, the person who submitted the question shall be allowed to follow up with additional questions based on the response provided.

(f) Appropriate questions are those that seek specific factual information about the license application, or about other documents created during the licensing process. The following kinds of questions do not require a response during a question and answer hearing[session]:

- (i) Questions that are not relevant to the licensing action;
- (ii) Questions that are based on information that is not in the record;
- (iii) Questions that are vague;
- (iv) Questions that require speculation;
- (v) Questions that seek legal conclusions;
- (vi) Questions that have been previously answered;
- (vii) Questions that are more appropriately characterized as comments; and

(viii) Questions that would not have to be answered during a trial-type hearing.

(g) Either the agency or the applicant may elect to answer a question even if it is a question that does not require a response under paragraph (f). No waiver will result from answering a question that does not require a response.

(h) Questions requesting information that is clear in the record may be answered by referring the questioner to the record.

(i) In the event that a questioner or the applicant disagrees with the Director's determinations under paragraphs (4)(c), (5)(b), or (5)(e), it may request a determination by the hearing officer. If the hearing officer disagrees with the Director's determination, the division or, as appropriate, the applicant may then:

- (i) comply with the hearing officer's determination during the question and answer hearing;
- (ii) comply with the hearing officer's determination by responding to the question in writing no fewer than 10 days before the end of the comment period; or
- (iii) notify the questioner or applicant that it contests the determination, and provide information to the questioner about the procedures available to it under paragraph (5)(j).

(j) If a decision of the hearing officer is contested as described in paragraph (5)(i)(iii), the person who asked the question may challenge that failure to comply with the hearing officer's decision on appeal. If the hearing officer's determination is upheld on appeal, the record on appeal shall be supplemented as described in paragraph (6) and R305-7-607.

(6) Formal Questioning During Appeal.

If no opportunity for a question and answer hearing is provided, or if an opportunity that was provided is found by the ALJ to have been deficient, an opportunity for questions and answers shall be provided on appeal as described in R305-7-607. This opportunity for questions and answers on appeal shall be available only to a petitioner who has exhausted procedures and remedies available under paragraphs R313-17-4(1) through R313-17-4(5). The scope of questions and answers on appeal shall be limited by the scope of the deficiency. [If the procedures in paragraphs (2) through (5) are not used before the Director's final determination, an opportunity for questioning shall be provided on appeal as described in R305-7-607.]

KEY: administrative procedures, comments, hearings, adjudicative proceedings

Date of Enactment or Last Substantive Amendment: [~~March 19, 2013~~2015]

Notice of Continuation: July 7, 2011

Authorizing, and Implemented or Interpreted Law: 19-3-104(4); 19-1-301 and 19-1-301.5

End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to 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.

Environmental Quality, Solid and Hazardous Waste **R315-16** Standards for Universal Waste Management

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 38961
FILED: 11/18/2014

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 19-6-104 requires the Board to "meet the requirements of federal law related to solid and hazardous wastes to insure that the solid and hazardous wastes program provided for in this part is qualified to assume primacy from the federal government in control over solid and hazardous waste". Section 19-6-105 allows the Board to make rules governing aspects of hazardous waste management. Section 19-6-106 requires the Board to make rules that are no more stringent than the federal rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Two changes were made in this rule during the period from the last five year review. No comments were received during the comment period.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-16 is the rule that governs the handling of hazardous waste and allows certain waste, when recycled, to be excluded from the requirements for transporting and treating of hazardous waste. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
SECOND FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3097
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Ralph Bohn by phone at 801-536-0212, by FAX at 801-536-0222, or by Internet E-mail at rbohn@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 11/18/2014

Environmental Quality, Solid and Hazardous Waste **R315-102** Penalty Policy

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 38960
FILED: 11/18/2014

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 19-6-104 requires the Board to "meet the requirements of federal law related to solid and hazardous wastes to insure that the solid and hazardous wastes program provided for in this part is qualified to assume primacy from the federal government in control over solid and hazardous waste". Section 19-6-105 allows the Board to make rules governing aspects of hazardous waste management. Section 19-6-106 requires the Board to make rules that are no more stringent than the federal rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: One change was made to this rule during the period from the last five year review. No comments were received during the comment period.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-102 is the penalty policy of the Division of Solid and Hazardous Waste and is needed to enforce the rules of the Board. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTE
 SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3097
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Ralph Bohn by phone at 801-536-0212, by FAX at 801-536-0222, or by Internet E-mail at rbohn@utah.gov

AUTHORIZED BY: Scott Anderson, Director

EFFECTIVE: 11/18/2014

Insurance, Administration
R590-196
 Bail Bond Surety Fee Standards,
 Collateral Standards and Disclosure
 Form

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 38966
 FILED: 11/21/2014

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule receives its authority from Section 31A-35-104. This section authorizes the commissioner to write rules establishing specific licensure and certification guidelines and standards of conduct for the business of surety bail bond insurance. The rule provides guidelines for fee and collateral standards to be used in the bail bond business along with a disclosure form that must be used by a bail bond agent when charging fees and receiving collateral.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: One hearing was held within the past five years, and two written comments were received. Both comments agreed with the changes made to the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to remain in effect to avoid price gouging and the charging of fees without a prior disclosure to the consumer. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 INSURANCE
 ADMINISTRATION
 ROOM 3110 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY, UT 84114-1201
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Todd Kiser, Commissioner

EFFECTIVE: 11/21/2014

Insurance, Administration
R590-197
Treatment of Guaranty Association
Assessments as Qualified Assets

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

DAR FILE NO.: 38967
FILED: 11/21/2014

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is promulgated by the insurance commissioner pursuant to the general authority to adopt a rule granted under Subsection 31A-2-201(3). Specific rulemaking authority in Subsection 31A-17-201(2)(a) allows the department to authorize other assets than those specified in the insurance code, as qualified assets in the determination of an insurer's financial condition. Pursuant to Subsection 31A-28-109(8) the insurance commissioner is authorized to approve the amounts and time periods for which contributions are treated as assets.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In the past five years, there have been no written comments requesting a change to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Insurers are still subject to guarantee fund assessments and states are still allowing premium tax offsets to insurers for payment of guarantee fund assessments. As long as insurers are afforded tax offsets or other benefits for payment of guarantee fund assessments, it is appropriate to allow them as an asset, which is what this rule does. Therefore, this rule is still necessary and should be continued.

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

INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Todd Kiser, Commissioner

EFFECTIVE: 11/21/2014

Insurance, Administration
R590-198
Valuation of Life Insurance Policies
Rule

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

DAR FILE NO.: 38968
FILED: 11/21/2014

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 31A-17-402 and 31A-17-512 authorize the commissioner to adopt a method for computing reserves for life insurance policies. Sections R590-198-5, R590-198-6, and R590-198-7 specifically set standards for determination of reserves for different types of life policies.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule ensures that life insurance companies will maintain an adequate level of reserves to pay future life insurance claims. Therefore, this rule should be continued.

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

INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Todd Kiser, Commissioner

450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

EFFECTIVE: 11/21/2014

**Insurance, Administration
R590-232**

**Authorization for a Health Maintenance
Organization to Provide Services as
Third Party Administrator of Health
Care Benefits**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 38969
FILED: 11/21/2014

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-8-103(2) allows the commissioner to waive provisions of Title 31A that may be considered inapplicable to health maintenance organizations. Section 31A-2-201 gives the commissioner authority to write rules to implement the provisions of Title 31A. The rule authorizes a health maintenance organization to provide services as a third party administrator of health care benefits without a license.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has not received any written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is important that this rule remain in effect since it authorizes health maintenance organizations (HMOs) to provide services as a third party administrator of health care benefits. As a third party administrator, an HMO would provide administrative services to employers and other associations having group insurance policies. They process claims, certify eligibility, etc. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Todd Kiser, Commissioner

EFFECTIVE: 11/21/2014

**Workforce Services, Unemployment
Insurance
R994-305**
Collection of Contributions

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 38965
FILED: 11/20/2014

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-4-305 requires each employer provide wage information quarterly and the payment of contributions based on those wages. The same provision also explains how the Department can collect any unpaid contributions as well as benefit overpayments. It also explains the liability of successor employers.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any comments in the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to explain to employers how to file quarterly reports and pay contributions, as well as the consequences for not paying when due. It also explains what action the Department can take to collect unpaid contributions and benefit overpayments. The rule also explains when and how the Department can approve an offer in compromise of unpaid contributions or overpayment. The rule is necessary to help employers, claimants and staff understand what steps are necessary in all these circumstances. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED,
DURING REGULAR BUSINESS HOURS, AT:
WORKFORCE SERVICES
UNEMPLOYMENT INSURANCE
140 E 300 S
SALT LAKE CITY, UT 84111-2333
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-
526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 11/20/2014

End of the Five-Year Notices of Review and Statements of Continuation Section

**NOTICES OF
FIVE-YEAR REVIEW EXTENSIONS**

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR REVIEW EXTENSION (EXTENSION)** with the Division of Administrative Rules. The **EXTENSION** permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed **EXTENSIONS** for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date.

EXTENSIONS are governed by Subsection 63G-3-305(6).

Education, Administration
R277-111
Sharing of Curriculum Materials by
Public School Educators

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 38962

FILED: 11/19/2014

EXTENSION REASON AND NEW DEADLINE: Received an email from Education asking for an extension. This extension will allow more time for discussion and a thorough review. New deadline is 05/08/2015.

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: 11/19/2014

End of the Notices of Five-Year Review Extensions 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

Administrative Services

Facilities Construction and Management

No. 38890 (AMD): R23-22. General Procedures for

Acquisition and Selling of Real Property

Published: 10/15/2014

Effective: 11/21/2014

Auditor

Administration

No. 38721 (NEW): R123-6. Allocation of Money in the

Property Tax Valuation Agency Fund

Published: 08/15/2014

Effective: 11/28/2014

Capitol Preservation Board (State)

Administration

No. 38887 (NEW): R131-16. Electronic Meetings

Published: 10/15/2014

Effective: 11/21/2014

Commerce

Consumer Protection

No. 38880 (AMD): R152-34. Postsecondary Proprietary

School Act Rules

Published: 10/15/2014

Effective: 11/24/2014

No. 38869 (NEW): R152-34a. Utah Postsecondary School

State Authorization Act Rules

Published: 10/15/2014

Effective: 11/24/2014

Occupational and Professional Licensing

No. 38886 (AMD): R156-63a. Security Personnel Licensing

Act Contract Security Rule

Published: 10/15/2014

Effective: 11/24/2014

Environmental Quality

Air Quality

No. 38674 (AMD): R307-335. Degreasing and Solvent

Cleaning Operations

Published: 08/01/2014

Effective: 12/01/2014

No. 38674 (CPR): R307-335. Degreasing and Solvent

Cleaning Operations

Published: 11/01/2014

Effective: 12/01/2014

No. 38675 (AMD): R307-342. Adhesives and Sealants

Published: 08/01/2014

Effective: 12/01/2014

No. 38675 (CPR): R307-342. Adhesives and Sealants

Published: 11/01/2014

Effective: 12/01/2014

No. 38676 (AMD): R307-343. Emissions Standards for

Wood Furniture Manufacturing Operations

Published: 08/01/2014

Effective: 12/01/2014

No. 38676 (CPR): R307-343. Emissions Standards for

Wood Furniture Manufacturing Operations

Published: 11/01/2014

Effective: 12/01/2014

No. 38677 (AMD): R307-344. Paper, Film, and Foil Coatings

Published: 08/01/2014

Effective: 12/01/2014

NOTICES OF RULE EFFECTIVE DATES

No. 38677 (CPR): R307-344. Paper, Film, and Foil Coatings
Published: 11/01/2014
Effective: 12/01/2014

No. 38678 (AMD): R307-345. Fabric and Vinyl Coatings
Published: 08/01/2014
Effective: 12/01/2014

No. 38678 (CPR): R307-345. Fabric and Vinyl Coatings
Published: 11/01/2014
Effective: 12/01/2014

No. 38679 (AMD): R307-346. Metal Furniture Surface
Coatings
Published: 08/01/2014
Effective: 12/01/2014

No. 38679 (CPR): R307-346. Metal Furniture Surface
Coatings
Published: 11/01/2014
Effective: 12/01/2014

No. 38680 (AMD): R307-347. Large Appliance Surface
Coatings
Published: 08/01/2014
Effective: 12/01/2014

No. 38680 (CPR): R307-347. Large Appliance Surface
Coatings
Published: 11/01/2014
Effective: 12/01/2014

No. 38682 (AMD): R307-349. Flat Wood Panel Coatings
Published: 08/01/2014
Effective: 12/01/2014

No. 38682 (CPR): R307-349. Flat Wood Panel Coatings
Published: 11/01/2014
Effective: 12/01/2014

No. 38683 (AMD): R307-350. Miscellaneous Metal Parts
and Products Coatings
Published: 08/01/2014
Effective: 12/01/2014

No. 38683 (CPR): R307-350. Miscellaneous Metal Parts and
Products Coatings
Published: 11/01/2014
Effective: 12/01/2014

No. 38684 (AMD): R307-352. Metal Container, Closure, and
Coil Coatings
Published: 08/01/2014
Effective: 12/01/2014

No. 38684 (CPR): R307-352. Metal Container, Closure, and
Coil Coatings
Published: 11/01/2014
Effective: 12/01/2014

No. 38685 (AMD): R307-353. Plastic Parts Coatings
Published: 08/01/2014
Effective: 12/01/2014

No. 38685 (CPR): R307-353. Plastic Parts Coatings
Published: 11/01/2014
Effective: 12/01/2014

No. 38686 (AMD): R307-354. Automotive Refinishing
Coatings
Published: 08/01/2014
Effective: 12/01/2014

No. 38686 (CPR): R307-354. Automotive Refinishing
Coatings
Published: 11/01/2014
Effective: 12/01/2014

No. 38687 (AMD): R307-355. Control of Emissions from
Aerospace Manufacture and Rework Facilities
Published: 08/01/2014
Effective: 12/01/2014

No. 38687 (CPR): R307-355. Control of Emissions from
Aerospace Manufacture and Rework Facilities
Published: 11/01/2014
Effective: 12/01/2014

No. 38579 (NEW): R307-501. Oil and Gas Industry:
General Provisions
Published: 07/01/2014
Effective: 12/01/2014

No. 38579 (CPR): R307-501. Oil and Gas Industry: General
Provisions
Published: 11/01/2014
Effective: 12/01/2014

No. 38580 (NEW): R307-502. Oil and Gas Industry:
Pneumatic Controllers
Published: 07/01/2014
Effective: 12/01/2014

No. 38580 (CPR): R307-502. Oil and Gas Industry:
Pneumatic Controllers
Published: 11/01/2014
Effective: 12/01/2014

No. 38581 (NEW): R307-503. Oil and Gas Industry: Flares
Published: 07/01/2014
Effective: 12/01/2014

No. 38581 (CPR): R307-503. Oil and Gas Industry: Flares
Published: 11/01/2014
Effective: 12/01/2014

Drinking Water

No. 38727 (AMD): R309-400. Water System Rating Criteria
Published: 09/01/2014
Effective: 11/17/2014

Health

Disease Control and Prevention, Immunization
No. 38893 (AMD): R396-100. Immunization Rule for Students
Published: 10/15/2014
Effective: 12/05/2014

Health Care Financing, Coverage and Reimbursement Policy
No. 38882 (AMD): R414-1-5. Incorporations by Reference
Published: 10/15/2014
Effective: 11/21/2014

No. 38888 (AMD): R414-303-9. Subsidized Adoptions
Published: 10/15/2014
Effective: 12/01/2014

No. 38889 (AMD): R414-308-6. Eligibility Period and Reviews
Published: 10/15/2014
Effective: 12/01/2014

Human Services

Administration, Administrative Services, Licensing
No. 38862 (R&R): R501-12. Child Foster Care
Published: 10/01/2014
Effective: 11/17/2014

Labor Commission

Industrial Accidents
No. 38881 (AMD): R612-300-4. General Method for Computing Medical Fees
Published: 10/15/2014
Effective: 11/24/2014

Pardons (Board Of)

Administration
No. 38876 (AMD): R671-309-2. Recusal
Published: 10/15/2014
Effective: 11/24/2014

No. 38875 (AMD): R671-514. Waiver and Pleas of Guilt
Published: 10/15/2014
Effective: 11/24/2014

Public Safety

Criminal Investigations and Technical Services, Criminal Identification
No. 38873 (AMD): R722-310. Regulation of Bail Bond Recovery and Enforcement Agents
Published: 10/15/2014
Effective: 11/21/2014

End of the Notices of Rule Effective Dates Section

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

The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2014 through December 01, 2014. 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>					
R13-2	Access to Records	38570	5YR	06/02/2014	2014-12/53
R13-2	Access to Records	38569	AMD	07/22/2014	2014-12/6
<u>Child Welfare Parental Defense (Office of)</u>					
R19-1	Parental Defense Counsel Training	38547	5YR	05/21/2014	2014-12/53
<u>Debt Collection</u>					
R21-2	Office of State Debt Collection Administrative Procedures	38497	NSC	05/29/2014	Not Printed
R21-3	Debt Collection Through Administrative Offset	38496	NSC	05/29/2014	Not Printed
<u>Facilities Construction and Management</u>					
R23-2	Procurement of Architect-Engineer Services	38870	5YR	09/16/2014	2014-20/73
R23-3	Planning and Programming for Capital Projects	38405	5YR	04/03/2014	2014-9/49
R23-19	Facility Use Rules	38617	AMD	08/07/2014	2014-13/8
R23-22	General Procedures for Acquisition and Selling of Real Property	38618	R&R	08/07/2014	2014-13/13
R23-22	General Procedures for Acquisition and Selling of Real Property	38890	AMD	11/21/2014	2014-20/6
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	38587	5YR	06/10/2014	2014-13/133
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	38615	AMD	08/07/2014	2014-13/18
R23-29	Across the Board Delegation	38404	5YR	04/03/2014	2014-9/49
R23-29	Across the Board Delegation	38425	R&R	06/09/2014	2014-9/4
R23-33	Rules for the Prioritization and Scoring of Capital Improvements by the Utah State Building Board	38247	NEW	03/10/2014	2014-3/2
<u>Finance</u>					
R25-7	Travel-Related Reimbursements for State Employees	38175	AMD	02/07/2014	2014-1/4
R25-7	Travel-Related Reimbursements for State Employees	38471	AMD	06/23/2014	2014-10/4
R25-7-8	Reimbursement for Lodging	38742	AMD	10/08/2014	2014-17/12
R25-10	State Entities' Posting of Financial Information to the Utah Public Notice Website	38653	5YR	06/25/2014	2014-14/79
R25-11	Utah Transparency Advisory Board, Procedures for Electronic Meetings	38634	NEW	08/21/2014	2014-14/4
<u>Fleet Operations</u>					
R27-4-13	Disposal of State Vehicles	38312	AMD	04/22/2014	2014-6/4
R27-7-3	Driver Eligibility to Operate a State Vehicle	38073	AMD	03/11/2014	2013-22/14

Purchasing and General Services

R33-1	Utah State Procurement Rules Definitions	38500	R&R	07/08/2014	2014-11/4
R33-1	Utah Procurement Rules, "General Procurement Provisions," Definitions	38689	5YR	07/08/2014	2014-15/61
R33-2	Procurement Organization	38501	R&R	07/08/2014	2014-11/6
R33-2	Rules of Procedure for Procurement Policy Board	38690	5YR	07/08/2014	2014-15/61
R33-3	Source Selection and Contract Formation	38502	R&R	07/08/2014	2014-11/9
R33-3	Procurement Organization	38691	5YR	07/08/2014	2014-15/62
R33-4	Specifications	38503	R&R	07/08/2014	2014-11/28
R33-4	General Procurement Provisions, Prequalifications, Specifications, and Small Purchases	38692	5YR	07/08/2014	2014-15/62
R33-5	Construction and Architect-Engineer Selection	38504	R&R	07/08/2014	2014-11/32
R33-5	Request for Information	38693	5YR	07/08/2014	2014-15/63
R33-6	Modification and Termination of Contracts for Supplies, Services, Construction, and Technology	38218	EXT	01/02/2014	2014-3/57
R33-6	Modification and Termination of Contracts for Supplies, Services, Construction, and Technology	38446	5YR	04/17/2014	2014-10/111
R33-6	Modification and Termination of Contracts for Supplies, Services, Construction, and Technology	38505	R&R	07/08/2014	2014-11/43
R33-6	Bidding	38694	5YR	07/08/2014	2014-15/64
R33-6-103	Pre-Bid Conferences/Site Visits	38756	AMD	10/08/2014	2014-17/13
R33-7	Cost Principles	38219	EXT	01/02/2014	2014-3/57
R33-7	Cost Principles	38447	5YR	04/17/2014	2014-10/111
R33-7	Cost Principles	38506	R&R	07/08/2014	2014-11/49
R33-7	Request for Proposals	38695	5YR	07/08/2014	2014-15/64
R33-7-201	Pre-proposal Conferences/Site Visits	38759	AMD	10/08/2014	2014-17/15
R33-7-601	Best and Final Offers	38757	AMD	10/08/2014	2014-17/16
R33-8	Property Management	38507	R&R	07/08/2014	2014-11/56
R33-8	Exceptions to Procurement Requirements	38696	5YR	07/08/2014	2014-15/65
R33-9	Insurance Procurement	38220	EXT	01/02/2014	2014-3/57
R33-9	Insurance Procurement	38448	5YR	04/17/2014	2014-10/112
R33-9	Insurance Procurement	38508	R&R	07/08/2014	2014-11/59
R33-9	Cancellations, Rejections, and Debarment	38697	5YR	07/08/2014	2014-15/65
R33-10	State Construction Contracts and Drug and Alcohol Testing	38509	R&R	07/08/2014	2014-11/62
R33-10	Preferences	38698	5YR	07/08/2014	2014-15/66
R33-11	Surplus Property	38524	R&R	07/08/2014	2014-11/64
R33-11	Form of Bonds	38699	5YR	07/08/2014	2014-15/66
R33-12	Rules of Procedure for Procurement Policy Board and Procurement Appeals Panel	38510	R&R	07/08/2014	2014-11/71
R33-12	Terms and Conditions, Contracts, Change Orders and Costs	38700	5YR	07/08/2014	2014-15/67
R33-13	General Construction Provisions	38511	NEW	07/08/2014	2014-11/79
R33-14	Procurement of Design-Build Transportation Project Contracts	38512	NEW	07/08/2014	2014-11/83
R33-15	Architect-Engineer Services	38513	NEW	07/08/2014	2014-11/84
R33-16	Controversies and Protests	38514	NEW	07/08/2014	2014-11/86
R33-17	Procurement Appeals Board	38515	NEW	07/08/2014	2014-11/87
R33-18	Appeal to the Utah Court of Appeals	38516	NEW	07/08/2014	2014-11/89
R33-19	General Provisions Related to Protest or Appeal	38518	NEW	07/08/2014	2014-11/90
R33-20	Records	38519	NEW	07/08/2014	2014-11/91
R33-21	Interaction Between Procurement Units	38520	NEW	07/08/2014	2014-11/92
R33-22	Reserved	38526	NEW	07/08/2014	2014-11/94
R33-23	Reserved	38527	NEW	07/08/2014	2014-11/95
R33-24	Unlawful Conduct	38521	NEW	07/08/2014	2014-11/95
R33-24	Unlawful Conduct	38758	AMD	10/08/2014	2014-17/18
R33-25	Executive Branch Insurance Procurement	38522	NEW	07/08/2014	2014-11/97
R33-26	State Surplus Property	38523	NEW	07/08/2014	2014-11/98

RULES INDEX

Records Committee

R35-1	State Records Committee Appeal Hearing Procedures	38572	5YR	06/03/2014	2014-13/133
R35-1	State Records Committee Appeal Hearing Procedures	38640	AMD	09/09/2014	2014-14/5
R35-1a	State Records Committee Definitions	38573	5YR	06/03/2014	2014-13/134
R35-1a	State Records Committee Definitions	38641	AMD	09/09/2014	2014-14/7
R35-2	Declining Appeal Hearings	38574	5YR	06/03/2014	2014-13/135
R35-2	Declining Appeal Hearings	38642	AMD	09/16/2014	2014-14/8
R35-3	Prehearing Conferences	38575	5YR	06/03/2014	2014-13/135
R35-3	Prehearing Conferences	38647	REP	09/16/2014	2014-14/10
R35-4	Compliance with State Records Committee Decisions and Orders	38576	5YR	06/03/2014	2014-13/136
R35-4	Compliance with State Records Committee Decisions and Orders	38643	AMD	09/16/2014	2014-14/11
R35-5	Subpoenas Issued by the Records Committee	38577	5YR	06/03/2014	2014-13/136
R35-5	Subpoenas Issued by the State Records Committee	38645	AMD	09/16/2014	2014-14/12
R35-6	Expedited Hearing	38578	5YR	06/03/2014	2014-13/137
R35-6	Expedited Hearing	38646	AMD	09/16/2014	2014-14/13

Risk Management

R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	38250	AMD	04/30/2014	2014-4/4
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AGRICULTURE AND FOOD

Animal Industry

R58-3	Brucellosis Vaccination Requirements	38294	AMD	04/16/2014	2014-5/4
R58-20	Domesticated Elk Hunting Parks	38251	5YR	01/17/2014	2014-4/67

Conservation Commission

R64-1	Agriculture Resource and Development Loans (ARDL)	38712	5YR	07/23/2014	2014-16/59
R64-1	Agriculture Resource and Development Loans (ARDL)	38747	AMD	10/08/2014	2014-17/20
R64-3	Utah Environmental Stewardship Certification Program (UESCP), a.k.a. Agriculture Certificate of Environmental Stewardship (ACES)	38071	NEW	05/08/2014	2013-22/15
R64-3	Utah Environmental Stewardship Certification Program (UESCP), a.k.a. Agriculture Certificate of Environmental Stewardship (ACES)	38071	CPR	05/08/2014	2014-7/82

Marketing and Development

R65-1	Utah Apple Marketing Order	38843	5YR	09/08/2014	2014-19/77
R65-3	Utah Turkey Marketing Order	38844	5YR	09/08/2014	2014-19/77
R65-4	Utah Egg Marketing Order	38845	5YR	09/08/2014	2014-19/78
R65-12	Utah Small Grains and Oilseeds Marketing Order	38287	NEW	04/16/2014	2014-5/5

Plant Industry

R68-3	Utah Fertilizer Act Governing Fertilizers and Soil Amendments	38937	5YR	11/06/2014	2014-23/55
-------	---	-------	-----	------------	------------

Regulatory Services

R70-101-7	Manufacturer Identification and Tag Requirements	38813	AMD	10/22/2014	2014-18/4
R70-310	Grade A Pasteurized Milk	38467	NSC	05/16/2014	Not Printed
R70-310	Grade A Pasteurized Milk	38636	EXT	06/18/2014	2014-14/87
R70-310	Grade A Pasteurized Milk	38651	5YR	06/24/2014	2014-14/79
R70-310	Grade A Pasteurized Milk	38652	NSC	07/11/2014	Not Printed
R70-410	Grading and Inspection of Shell Eggs with Standard Grade and Weight Classes	38315	AMD	05/08/2014	2014-6/5
R70-440	Egg Products Inspection	38872	5YR	09/16/2014	2014-20/73
R70-530	Food Protection	38262	R&R	03/27/2014	2014-4/5
R70-540	Food Establishment Registration	38871	5YR	09/16/2014	2014-20/74
R70-960	Weights and Measures Fee Registration	38846	5YR	09/08/2014	2014-19/79

ALCOHOLIC BEVERAGE CONTROL

Administration

R81-1-16	Disqualification Based Upon Conviction of Crime	38274	AMD	03/25/2014	2014-4/10
R81-1-32	Further Application	38323	AMD	04/29/2014	2014-6/7
R81-7	Single Event Permits	38275	AMD	03/25/2014	2014-4/11
R81-10b	Temporary Beer Event Permits	38276	AMD	03/25/2014	2014-4/14

ATTORNEY GENERAL

Administration

R105-2	Records Access and Management	38245	NSC	01/30/2014	Not Printed
R105-2	Records Access and Management	38749	NSC	08/28/2014	Not Printed

AUDITOR

Administration

R123-6	Allocation of Money in the Property Tax Valuation Agency Fund	38721	NEW	11/28/2014	2014-16/4
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CAPITOL PRESERVATION BOARD (STATE)

Administration

R131-4	Capitol Preservation Board General Procurement Rule	38546	EMR	05/21/2014	2014-12/49
R131-4	Capitol Preservation Board General Procurement Rule	38557	AMD	07/22/2014	2014-12/8
R131-13	Health Reform - Health Insurance Coverage in State Contracts - Implementation	38476	5YR	05/01/2014	2014-10/113
R131-13	Health Reform - Health Insurance Coverage in State Contracts - Implementation	38479	AMD	07/08/2014	2014-11/103
R131-16	Electronic Meetings	38887	NEW	11/21/2014	2014-20/9

COMMERCE

Consumer Protection

R152-21	Credit Services Organizations Act Rules	38266	5YR	01/29/2014	2014-4/67
R152-23	Utah Health Spa Services	38748	AMD	10/16/2014	2014-17/22
R152-26	Telephone Fraud Prevention Act	38125	AMD	01/07/2014	2013-23/4
R152-32a-2	Exempt Businesses	38763	AMD	10/16/2014	2014-17/23
R152-34	Postsecondary Proprietary School Act Rules	38880	AMD	11/24/2014	2014-20/10
R152-34a	Utah Postsecondary School State Authorization Act Rules	38869	NEW	11/24/2014	2014-20/12

Corporations and Commercial Code

R154-2	Utah Uniform Commercial Code, Revised Article 9 Rules	38320	R&R	04/21/2014	2014-6/9
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Occupational and Professional Licensing

R156-1	General Rule of the Division of Occupational and Professional Licensing	38659	AMD	08/21/2014	2014-14/14
R156-1-501	Unprofessional Conduct	38157	AMD	01/21/2014	2013-24/6
R156-1-501	Unprofessional Conduct	38253	NSC	01/31/2014	Not Printed
R156-9	Funeral Service Licensing Act Rule	38737	AMD	10/09/2014	2014-17/25
R156-15	Health Facility Administrator Act Rule	38337	AMD	05/08/2014	2014-7/5
R156-15A	State Construction Code Administration and Adoption of Approved State Construction Code Rule	38733	AMD	10/09/2014	2014-17/26
R156-15A-231	Administration of Building Code Training Fund and Factory Built Housing Fees Account	38549	AMD	07/22/2014	2014-12/10
R156-15A-231	Administration of Building Code Training Fund and Factory Built Housing Fees Account	38792	AMD	10/23/2014	2014-18/5
R156-17b	Pharmacy Practice Act Rule	38638	AMD	08/21/2014	2014-14/21
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rule	38279	AMD	04/08/2014	2014-5/7

RULES INDEX

R156-24b	Physical Therapy Practice Act Rule	38473	AMD	06/23/2014	2014-10/9
R156-24b-505	Trigger Point Dry Needling - Education and Experience Required - Registration	38657	AMD	08/21/2014	2014-14/41
R156-31b	Nurse Practice Act Rule	38475	R&R	06/23/2014	2014-10/11
R156-31c	Nurse Licensure Compact Rule	38801	5YR	08/21/2014	2014-18/89
R156-38a	Residence Lien Restriction and Lien Recovery Fund Rule	38885	NSC	11/03/2014	Not Printed
R156-38a-301a	Contractor Registration as a Qualified Beneficiary - All License Classifications Required to Register Unless Specifically Exempted - Exempted Classifications	38732	NSC	08/28/2014	Not Printed
R156-38a-401	Requirements for a Letter of Credit and/or Evidence of a Cash Deposit as Alternate Security for Mechanics' Lien	38533	NSC	05/29/2014	Not Printed
R156-40	Recreational Therapy Practice Act Rule	38517	AMD	07/08/2014	2014-11/105
R156-40a-302a	Qualifications for Licensure	38548	AMD	07/22/2014	2014-12/13
R156-42a	Occupational Therapy Practice Act Rule	38254	5YR	01/21/2014	2014-4/68
R156-42a	Occupational Therapy Practice Act Rule	38313	AMD	04/21/2014	2014-6/24
R156-44a	Nurse Midwife Practice Act Rule	38249	5YR	01/16/2014	2014-4/69
R156-46a	Hearing Instrument Specialist Licensing Act Rule	38155	AMD	01/21/2014	2013-24/7
R156-46a	Hearing Instrument Specialist Licensing Act Rule	38257	5YR	01/27/2014	2014-4/69
R156-53	Landscape Architects Licensing Act Rule	38639	AMD	08/21/2014	2014-14/43
R156-55a	Utah Construction Trades Licensing Act Rule	38151	AMD	01/21/2014	2013-24/10
R156-55a	Utah Construction Trades Licensing Act Rule	38736	AMD	10/09/2014	2014-17/28
R156-55a-102	Definitions	38902	NSC	10/31/2014	Not Printed
R156-55a-301	License Classifications - Scope of Practice	38380	NSC	04/14/2014	Not Printed
R156-55a-302f	Pre-licensure Education - Standards	38760	AMD	10/09/2014	2014-17/31
R156-55b	Electricians Licensing Act Rule	38648	AMD	08/21/2014	2014-14/44
R156-55c	Plumber Licensing Act Rule	38731	AMD	10/09/2014	2014-17/33
R156-55d	Burglar Alarm Licensing Rule	38825	AMD	10/23/2014	2014-18/8
R156-60	Mental Health Professional Practice Act Rule	38421	5YR	04/08/2014	2014-9/50
R156-60-102	Definitions	38390	AMD	05/22/2014	2014-8/6
R156-60a	Social Worker Licensing Act Rule	38730	5YR	08/04/2014	2014-17/135
R156-60b	Marriage and Family Therapist Licensing Act Rule	38734	5YR	08/05/2014	2014-17/136
R156-61	Psychologist Licensing Act Rule	38233	5YR	01/13/2014	2014-3/49
R156-63a	Security Personnel Licensing Act Contract Security Rule	38450	AMD	06/23/2014	2014-10/45
R156-63a	Security Personnel Licensing Act Contract Security Rule	38886	AMD	11/24/2014	2014-20/14
R156-63b	Security Personnel Licensing Act Armored Car Rule	38474	AMD	06/23/2014	2014-10/48
R156-64	Deception Detection Examiners Licensing Act Rule	38814	AMD	10/23/2014	2014-18/10
R156-67	Utah Medical Practice Act Rule	38106	AMD	01/07/2014	2013-23/5
R156-67	Utah Medical Practice Act Rule	38649	AMD	08/21/2014	2014-14/46
R156-68	Utah Osteopathic Medical Practice Act Rule	38107	AMD	01/07/2014	2013-23/6
R156-68	Utah Osteopathic Medical Practice Act Rule	38552	AMD	07/28/2014	2014-12/14
R156-69	Dentist and Dental Hygienist Practice Act Rule	38149	AMD	01/21/2014	2013-24/20
R156-72	Acupuncture Licensing Act Rule	38165	AMD	02/10/2014	2014-1/8
R156-77	Direct-Entry Midwife Act Rule	38375	AMD	05/22/2014	2014-8/7
R156-78	Vocational Rehabilitation Counselor Licensing Act Rule	38761	5YR	08/14/2014	2014-17/136
R156-79	Hunting Guides and Outfitters Licensing Act Rule	38735	5YR	08/05/2014	2014-17/137
R156-80a	Medical Language Interpreter Act Rule	38388	5YR	03/31/2014	2014-8/37
R156-81	Retired Volunteer Health Care Practitioner Act Rule	38382	5YR	03/25/2014	2014-8/37
<u>Real Estate</u>					
R162-2f	Real Estate Licensing and Practices Rules	38213	AMD	02/25/2014	2014-2/4
R162-2g	Real Estate Appraiser Licensing and Certification Administrative Rules	38270	AMD	03/31/2014	2014-4/16
R162-2g	Real Estate Appraiser Licensing and Certification Administrative Rules	38389	AMD	05/22/2014	2014-8/8

CORRECTIONS

Administration

R251-111 Government Records Access and Management 38255 NEW 03/26/2014 2014-4/25

CRIME VICTIM REPARATIONS

Administration

R270-1-13 Awards 38221 EMR 01/04/2014 2014-3/47
 R270-3 ADA Complaint Procedure 38258 EXT 01/27/2014 2014-4/75
 R270-3 ADA Complaint Procedure 38498 5YR 05/12/2014 2014-11/171
 R270-4 Government Records Access and Management 38259 EXT 01/27/2014 2014-4/75
 Act
 R270-4 Government Records Access and Management 38499 5YR 05/12/2014 2014-11/171
 Act

EDUCATION

Administration

R277-102 Adjudicative Proceedings 38408 5YR 04/04/2014 2014-9/51
 R277-105 Recognizing Constitutional Freedoms in the 38409 5YR 04/04/2014 2014-9/51
 Schools
 R277-105 Recognizing Constitutional Freedoms in the 38432 AMD 06/09/2014 2014-9/8
 Schools
 R277-111 Sharing of Curriculum Materials by Public 38962 EXT 11/19/2014 Not Printed
 School Educators
 R277-113-4 LEA Responsibilities 38772 AMD 10/09/2014 2014-17/39
 R277-116 Utah State Board of Education Internal Audit 38183 AMD 02/07/2014 2014-1/10
 Procedure
 R277-117 Utah State Board of Education Protected 38295 5YR 02/13/2014 2014-5/59
 Documents
 R277-117 Utah State Board of Education Protected 38299 AMD 04/07/2014 2014-5/16
 Documents
 R277-118 LEA Post-employment Benefits Plans 38433 NEW 06/09/2014 2014-9/11
 R277-119 Discretionary Funds 38357 NEW 05/08/2014 2014-7/7
 R277-400 School Emergency Response Plans 38296 5YR 02/13/2014 2014-5/59
 R277-400 School Emergency Response Plans 38300 AMD 04/07/2014 2014-5/17
 R277-400 School Emergency Response Plans 38773 AMD 10/09/2014 2014-17/41
 R277-400-5 Plan(s) Content--Educational Services and 38426 NSC 04/29/2014 Not Printed
 Student Supervision and Building Access
 R277-402 School Readiness Initiative 38774 NEW 10/09/2014 2014-17/44
 R277-404 Requirements for Assessments of Student 38863 AMD 11/10/2014 2014-19/5
 Achievement
 R277-410-5 Accreditation Procedures 38434 AMD 06/09/2014 2014-9/13
 R277-419-9 Provisions for Maintaining Student Membership 38585 EMR 06/09/2014 2014-13/129
 and Enrollment Documentation and
 Documentation of Student Education Services
 Provided by Third Party Vendors for School
 Year 2014-2015
 R277-422-4 K-3 Reading Achievement Program 38864 AMD 11/10/2014 2014-19/10
 R277-437 Student Enrollment Options 38185 AMD 02/07/2014 2014-1/12
 R277-438 Dual Enrollment 38347 5YR 03/14/2014 2014-7/89
 R277-462 Comprehensive Counseling and Guidance 38591 5YR 06/10/2014 2014-13/137
 Program
 R277-462 Comprehensive Counseling and Guidance 38621 AMD 08/07/2014 2014-13/20
 Program
 R277-463 Class Size Average and Pupil-Teacher Ratio 38590 5YR 06/10/2014 2014-13/138
 Reporting
 R277-463 Class Size Average and Pupil-Teacher Ratio 38622 AMD 08/07/2014 2014-13/24
 Reporting
 R277-470 Charter Schools - General Provisions 38623 AMD 08/07/2014 2014-13/25
 R277-470-6 Charter School Mentoring Program 38186 AMD 02/07/2014 2014-1/14
 R277-471 Oversight of School Inspections 38854 5YR 09/09/2014 2014-19/79
 R277-471 Oversight of School Inspections 38865 AMD 11/10/2014 2014-19/11
 R277-472 Charter School Student Enrollment and 38589 5YR 06/10/2014 2014-13/138
 Transfers and School District Capacity
 Information

RULES INDEX

R277-472	Charter School Student Enrollment and Transfers and School District Capacity Information	38624	AMD	08/07/2014	2014-13/28
R277-477	Distribution of Funds from the Interest and Dividend Account and Administration of the School LAND Trust Program	38541	AMD	07/08/2014	2014-11/109
R277-477-3	Distribution of Funds - Local Board or Local Charter Board Approval of School LAND Trust Plans	38326	NSC	04/01/2014	Not Printed
R277-480	Charter School Revolving Account	38588	5YR	06/10/2014	2014-13/139
R277-480-4	Charter School Revolving Account Application and Conditions	38625	AMD	08/07/2014	2014-13/30
R277-481	Charter School Oversight, Monitoring and Appeals	38187	AMD	02/07/2014	2014-1/15
R277-486	Professional Staff Cost Program	38348	5YR	03/14/2014	2014-7/89
R277-486	Professional Staff Cost Program	38356	NSC	04/01/2014	Not Printed
R277-487	Public School Data Confidentiality and Disclosure	38955	5YR	11/14/2014	2014-23/55
R277-491	School Community Councils	38542	AMD	07/08/2014	2014-11/113
R277-495	Required Policies for Electronic Devices in Public Schools	38301	AMD	04/07/2014	2014-5/20
R277-497	School Grading System	38111	AMD	01/08/2014	2013-23/8
R277-502-3	Program Approval and Requirements	38833	NSC	09/19/2014	Not Printed
R277-502-5	Professional Education License Areas of Concentration, and Endorsements and Under-Qualified Employees	38775	AMD	10/09/2014	2014-17/45
R277-503	Licensing Routes	38240	AMD	03/10/2014	2014-3/4
R277-503-4	Licensing Routes	38435	AMD	06/09/2014	2014-9/14
R277-504	Early Childhood, Elementary, Secondary, Special Education (K-12), Communication Disorders, Speech-Language Pathologist and Speech-Language Technician, and Preschool Special Education (Birth-Age 5) Licensure	38829	5YR	09/02/2014	2014-18/89
R277-504	Early Childhood, Elementary, Secondary, Special Education (K-12), Communication Disorders, Speech-Language Pathologist and Speech-Language Technician, and Preschool Special Education (Birth-Age 5) Licensure	38866	R&R	11/10/2014	2014-19/19
R277-506	School Psychologists, School Social Workers, and School Counselors Licenses and Programs	38867	AMD	11/10/2014	2014-19/26
R277-506	School Psychologists, School Social Workers, and School Counselors Licenses and Programs	38951	5YR	11/13/2014	2014-23/56
R277-510-4	NCLB Highly Qualified Assignments - Elementary Teachers 1-8	38289	NSC	02/27/2014	Not Printed
R277-516	Education Employee Required Reports of Arrests and Required Background Check Policies for Non-licensed Employees	38594	5YR	06/10/2014	2014-13/139
R277-518	Career and Technical Education Licenses	38241	AMD	03/10/2014	2014-3/8
R277-524	Paraprofessional/Paraeducator Programs, Assignments, and Qualifications	38349	5YR	03/14/2014	2014-7/90
R277-524	Paraprofessional/Paraeducator Programs, Assignments, and Qualifications	38358	AMD	05/08/2014	2014-7/8
R277-525	Special Educator Stipends	38114	AMD	01/08/2014	2013-23/9
R277-526	Paraeducator to Teacher Scholarship Program	38302	AMD	04/07/2014	2014-5/23
R277-527	International Guest Teachers	38190	AMD	02/07/2014	2014-1/18
R277-528	Use of Public Education Job Enhancement Program (PEJEP) Funds	38242	NEW	03/10/2014	2014-3/12
R277-531	Public Educator Evaluation Requirements (PEER)	38776	AMD	10/09/2014	2014-17/46
R277-532-3	School District Policies	38777	AMD	10/09/2014	2014-17/49
R277-601	Standards for Utah School Buses and Operations	38410	5YR	04/04/2014	2014-9/52
R277-601-3	Standards	38436	AMD	06/09/2014	2014-9/17
R277-602-3	Parent/Guardian Responsibilities	38626	AMD	08/07/2014	2014-13/32
R277-607	Truancy Prevention	38831	5YR	09/02/2014	2014-18/90

R277-607	Truancy Prevention	38778	AMD	10/09/2014	2014-17/50
R277-619	Student Leadership Skills Development	38779	AMD	10/09/2014	2014-17/52
R277-620	Suicide Prevention Programs	38780	AMD	10/09/2014	2014-17/53
R277-704	Financial and Economic Literacy: Integration into Core Curriculum and Financial and Economic Literacy Student Passports	38113	AMD	01/08/2014	2013-23/11
R277-704	Financial and Economic Literacy: Integration into Core Curriculum and Financial and Economic Literacy Student Passports	38781	AMD	10/09/2014	2014-17/55
R277-706	Public Education Regional Service Centers	38832	5YR	09/02/2014	2014-18/90
R277-706	Public Education Regional Service Centers	38782	AMD	10/09/2014	2014-17/57
R277-708	Enhancement for At-Risk Students Program	38851	NSC	09/30/2014	Not Printed
R277-709	Education Programs Serving Youth in Custody	38116	AMD	01/14/2014	2013-23/13
R277-709-1	Definitions	38834	NSC	09/19/2014	Not Printed
R277-709-11	Coordinating Council	38359	AMD	05/08/2014	2014-7/10
R277-710	Intergenerational Poverty Interventions in Public Schools	38627	NEW	08/07/2014	2014-13/33
R277-713	Concurrent Enrollment of High School Students in College Courses	38852	NSC	09/30/2014	Not Printed
R277-714	Dissemination of Information About Juvenile Offenders	38593	5YR	06/10/2014	2014-13/140
R277-719	Standards for Selling Foods Outside of the Reimbursable Meal in Schools	38628	AMD	08/07/2014	2014-13/35
R277-724	Criteria for Sponsors Recruiting Day Care Facilities in the Child and Adult Care Food Program	38351	5YR	03/14/2014	2014-7/90
R277-725	Electronic High School	38411	5YR	04/04/2014	2014-9/52
R277-725	Electronic High School	38437	AMD	06/09/2014	2014-9/18
R277-735	Corrections Education Programs	38352	5YR	03/14/2014	2014-7/91
R277-735	Corrections Education Programs	38360	AMD	05/08/2014	2014-7/11
R277-800	Utah Schools for the Deaf and the Blind	38592	5YR	06/10/2014	2014-13/140
R277-800	Utah Schools for the Deaf and the Blind	38868	AMD	11/10/2014	2014-19/29
R277-916	Career and Technical Education Introduction and Work-Based Learning Programs	38412	5YR	04/04/2014	2014-9/53
<u>Rehabilitation</u>					
R280-150	Adjudicative Proceedings Under the Vocational Rehabilitation Act	38538	5YR	05/15/2014	2014-11/172
R280-150	Adjudicative Proceedings Under the Vocational Rehabilitation Act	38539	AMD	07/08/2014	2014-11/117
R280-202	USOR Procedures for Individuals with the Most Severe Disabilities	38353	5YR	03/14/2014	2014-7/91
R280-202	USOR Procedures for Individuals with the Most Severe Disabilities	38361	AMD	05/08/2014	2014-7/14
R280-202-3	Eligibility Criteria	38540	NSC	05/29/2014	Not Printed
R280-203	Certification Requirements for Interpreters for the Hearing Impaired	38853	5YR	09/09/2014	2014-19/80
ENVIRONMENTAL QUALITY					
<u>Administration</u>					
R305-1	Records Access and Management	38244	NSC	01/30/2014	Not Printed
R305-4	Clean Fuels and Vehicle Technology Fund Grant and Loan Program	38525	AMD	07/08/2014	2014-11/118
<u>Air Quality</u>					
R307-101	General Requirements	38494	5YR	05/08/2014	2014-11/172
R307-101-3	Version of Code of Federal Regulations Incorporated by Reference	38493	AMD	08/07/2014	2014-11/122
R307-103-1	Administrative Procedures	38252	NSC	01/31/2014	Not Printed
R307-110-17	Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits	38061	AMD	01/09/2014	2013-21/8
R307-150	Emission Inventories	38261	5YR	01/28/2014	2014-4/70
R307-202	Emission Standards: General Burning	38673	AMD	10/06/2014	2014-15/6
R307-210-2	Oil and Gas Sector: New Source Performance Standards	38104	AMD	03/06/2014	2013-23/17

RULES INDEX

R307-214	National Emission Standards for Hazardous Air Pollutants	38492	AMD	08/07/2014	2014-11/123
R307-214-3	Oil and Gas Sector: National Emission Standards for Hazardous Air Pollutants	38105	AMD	03/06/2014	2013-23/18
R307-302	Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah and Weber Counties	38166	AMD	03/06/2014	2014-1/20
R307-335	Degreasing and Solvent Cleaning Operations	37829	AMD	06/02/2014	2013-15/23
R307-335	Degreasing and Solvent Cleaning Operations	37829	CPR	06/02/2014	2013-23/54
R307-335	Degreasing and Solvent Cleaning Operations	37829	CPR	06/02/2014	2014-7/85
R307-335	Degreasing and Solvent Cleaning Operations	37829	CPR	06/02/2014	2014-9/46
R307-335	Degreasing and Solvent Cleaning Operations	38674	AMD	12/01/2014	2014-15/8
R307-335	Degreasing and Solvent Cleaning Operations	38674	CPR	12/01/2014	2014-21/48
R307-342	Adhesives and Sealants	38675	AMD	12/01/2014	2014-15/11
R307-342	Adhesives and Sealants	38675	CPR	12/01/2014	2014-21/50
R307-342-3	Exemptions	38583	AMD	09/04/2014	2014-13/37
R307-343	Emissions Standards for Wood Furniture Manufacturing Operations	38676	AMD	12/01/2014	2014-15/16
R307-343	Emissions Standards for Wood Furniture Manufacturing Operations	38676	CPR	12/01/2014	2014-21/56
R307-344	Paper, Film, and Foil Coatings	38677	AMD	12/01/2014	2014-15/19
R307-344	Paper, Film, and Foil Coatings	38677	CPR	12/01/2014	2014-21/59
R307-345	Fabric and Vinyl Coatings	38678	AMD	12/01/2014	2014-15/21
R307-345	Fabric and Vinyl Coatings	38678	CPR	12/01/2014	2014-21/61
R307-346	Metal Furniture Surface Coatings	38679	AMD	12/01/2014	2014-15/23
R307-346	Metal Furniture Surface Coatings	38679	CPR	12/01/2014	2014-21/63
R307-347	Large Appliance Surface Coatings	38680	AMD	12/01/2014	2014-15/26
R307-347	Large Appliance Surface Coatings	38680	CPR	12/01/2014	2014-21/65
R307-348	Magnet Wire Coatings	38681	AMD	10/07/2014	2014-15/28
R307-349	Flat Wood Panel Coatings	38682	AMD	12/01/2014	2014-15/30
R307-349	Flat Wood Panel Coatings	38682	CPR	12/01/2014	2014-21/67
R307-350	Miscellaneous Metal Parts and Products Coatings	38683	AMD	12/01/2014	2014-15/32
R307-350	Miscellaneous Metal Parts and Products Coatings	38683	CPR	12/01/2014	2014-21/69
R307-352	Metal Container, Closure, and Coil Coatings	38684	AMD	12/01/2014	2014-15/34
R307-352	Metal Container, Closure, and Coil Coatings	38684	CPR	12/01/2014	2014-21/73
R307-353	Plastic Parts Coatings	38685	AMD	12/01/2014	2014-15/39
R307-353	Plastic Parts Coatings	38685	CPR	12/01/2014	2014-21/75
R307-354	Automotive Refinishing Coatings	38686	AMD	12/01/2014	2014-15/40
R307-354	Automotive Refinishing Coatings	38686	CPR	12/01/2014	2014-21/78
R307-355	Control of Emissions from Aerospace Manufacture and Rework Facilities	38687	AMD	12/01/2014	2014-15/45
R307-355	Control of Emissions from Aerospace Manufacture and Rework Facilities	38687	CPR	12/01/2014	2014-21/81
R307-357-4	Standards	38332	AMD	05/08/2014	2014-7/16
R307-357-4	Standards	38495	NSC	05/29/2014	Not Printed
R307-401-12	Reduction in Air Contaminants	38491	AMD	08/07/2014	2014-11/127
R307-401-19	General Approval Order	37833	AMD	01/06/2014	2013-15/29
R307-401-19	General Approval Order	37833	CPR	01/06/2014	2013-23/55
R307-405	Permits: Major Sources in Attainment or Unclassified Areas (PSD)	38260	5YR	01/28/2014	2014-4/70
R307-410-2	Definitions	38489	AMD	08/07/2014	2014-11/128
R307-410-6	Stack Heights and Dispersion Techniques	38490	AMD	08/07/2014	2014-11/129
R307-501	Oil and Gas Industry: General Provisions	38579	NEW	12/01/2014	2014-13/39
R307-501	Oil and Gas Industry: General Provisions	38579	CPR	12/01/2014	2014-21/84
R307-502	Oil and Gas Industry: Pneumatic Controllers	38580	NEW	12/01/2014	2014-13/40
R307-502	Oil and Gas Industry: Pneumatic Controllers	38580	CPR	12/01/2014	2014-21/86
R307-503	Oil and Gas Industry: Flares	38581	NEW	12/01/2014	2014-13/42
R307-503	Oil and Gas Industry: Flares	38581	CPR	12/01/2014	2014-21/87
R307-504	Oil and Gas Industry: Tank Truck Loading	38582	NEW	10/07/2014	2014-13/43
R307-840	Lead-Based Paint Program Purpose, Applicability, and Definitions	38330	5YR	03/06/2014	2014-7/92
<u>Drinking Water</u>					
R309-400	Water System Rating Criteria	38727	AMD	11/17/2014	2014-17/60
R309-511	Hydraulic Modeling Requirements	38013	AMD	01/21/2014	2013-19/48

R309-515	Facility Design and Operation: Source Development	38012	AMD	01/21/2014	2013-19/51
R309-545	Facility Design and Operation: Drinking Water Storage Tanks	38535	AMD	11/10/2014	2014-11/130
R309-545	Facility Design and Operation: Drinking Water Storage Tanks	38535	CPR	11/10/2014	2014-16/48
R309-550	Facility Design and Operation: Transmission and Distribution Pipelines	38536	AMD	11/10/2014	2014-11/135
R309-550	Facility Design and Operation: Transmission and Distribution Pipelines	38536	CPR	11/10/2014	2014-16/52

Environmental Response and Remediation

R311-201-12	UST Operator Training and Registration	38764	AMD	10/10/2014	2014-17/76
R311-204-3	Disposal	38765	AMD	10/10/2014	2014-17/79
R311-206-11	Environmental Assurance Fee Rebate Program	38766	AMD	10/10/2014	2014-17/80
R311-209-4	Recovery of Management and Oversight Expenses	38767	AMD	10/10/2014	2014-17/82
R311-212	Administration of the Petroleum Storage Tank Loan Fund	38768	AMD	10/10/2014	2014-17/84

Radiation Control

R313-12-3	Definitions	38752	AMD	10/21/2014	2014-17/88
R313-14	Violations and Escalated Enforcement	38076	AMD	04/03/2014	2013-22/45
R313-14	Violations and Escalated Enforcement	38076	CPR	04/03/2014	2014-4/50
R313-22-33	General Requirements for the Issuance of Specific Licenses	38754	AMD	10/21/2014	2014-17/97
R313-22-34	Issuance of Specific Licenses	38145	AMD	02/14/2014	2013-23/19
R313-25	License Requirements for Land Disposal of Radioactive Waste - General Provisions	38082	AMD	04/03/2014	2013-22/49
R313-25	License Requirements for Land Disposal of Radioactive Waste - General Provisions	38082	CPR	04/03/2014	2014-4/53
R313-25-2	Definitions	38755	AMD	10/21/2014	2014-17/99
R313-38-3	Clarifications or Exceptions	38147	AMD	04/07/2014	2013-23/20
R313-38-3	Clarifications or Exceptions	38147	CPR	04/07/2014	2014-5/56
R313-70	Payments, Categories and Types of Fees	38751	AMD	10/21/2014	2014-17/104
R313-70-5	Payment of Fees	38146	AMD	02/18/2014	2013-23/22

Solid and Hazardous Waste

R315-1-1	Definitions	38609	AMD	08/15/2014	2014-13/44
R315-2-4	Exclusions	38610	AMD	08/15/2014	2014-13/47
R315-8-14	Landfills	38334	NSC	04/01/2014	Not Printed
R315-12	Administrative Procedures	38335	NSC	04/01/2014	Not Printed
R315-15	Standards for the Management of Used Oil	38611	AMD	10/03/2014	2014-13/56
R315-15	Standards for the Management of Used Oil	38611	CPR	10/03/2014	2014-17/130
R315-16	Standards for Universal Waste Management	38961	5YR	11/18/2014	Not Printed
R315-102	Penalty Policy	38960	5YR	11/18/2014	Not Printed

Water Quality

R317-1-7	TMDLs	38235	AMD	03/27/2014	2014-3/13
R317-1-7	TMDLs	38402	AMD	08/01/2014	2014-8/13
R317-2-14	Numeric Criteria	38288	AMD	07/02/2014	2014-5/25
R317-2-14	Numeric Criteria	38288	CPR	07/02/2014	2014-11/168
R317-5	Large Underground Wastewater Disposal (LUWD) Systems	38271	R&R	03/26/2014	2014-4/26
R317-10	Certification of Wastewater Works Operators	38531	AMD	08/27/2014	2014-11/143
R317-12	General Requirements: Tax Exemption for Water Pollution Control Equipment	38661	R&R	08/27/2014	2014-14/48
R317-401	Graywater Systems	38481	5YR	05/06/2014	2014-11/173
R317-550	Rules for Waste Disposal By Liquid Scavenger Operations	38387	AMD	07/30/2014	2014-8/14

GOVERNOR

Economic Development

R357-2	Targeted Business Tax Credit	38860	NEW	11/08/2014	2014-19/46
R357-7	Utah Capital Investment Board	38154	NEW	01/24/2014	2013-24/22
R357-7	Utah Capital Investment Board	38702	R&R	09/11/2014	2014-15/48

RULES INDEX

<u>Economic Development, Pete Suazo Utah Athletic Commission</u>						
R359-1-604	Boxing - Gloves	38033	AMD	01/24/2014	2013-20/25	
<u>Energy Development (Office of)</u>						
R362-2	Renewable Energy Systems Tax Credits	38163	AMD	01/22/2014	2013-24/23	
HEALTH						
<u>Administration</u>						
R380-25	Submission of Data Through an Electronic Data Interchange	38586	5YR	06/09/2014	2014-13/140	
R380-70	Standards for Electronic Exchange of Clinical Health Information	38256	5YR	01/24/2014	2014-4/71	
<u>Center for Health Data, Health Care Statistics</u>						
R428-1	Adoption of Health Data Plan	38571	AMD	08/05/2014	2014-12/16	
R428-2	Health Data Authority Standards for Health Data	38562	R&R	08/05/2014	2014-12/18	
R428-5	Appeal and Adjudicative Proceedings	38563	AMD	08/05/2014	2014-12/23	
R428-10	Health Data Authority Hospital Inpatient Reporting Rule	38564	R&R	08/05/2014	2014-12/26	
R428-11	Health Data Authority Ambulatory Surgical Data Reporting Rule	38565	R&R	08/05/2014	2014-12/30	
R428-12	Health Data Authority Survey of Enrollees in Health Plans	38566	AMD	08/05/2014	2014-12/34	
R428-13	Health Data Authority, Audit and Reporting of Health Plan Performance Measures	38567	AMD	08/05/2014	2014-12/36	
R428-15	Health Data Authority Health Insurance Claims Reporting	38144	AMD	01/07/2014	2013-23/43	
R428-15	Health Data Authority Health Insurance Claims Reporting	38568	AMD	08/05/2014	2014-12/38	
R428-15	Health Data Authority Health Insurance Claims Reporting	38905	5YR	10/10/2014	2014-21/91	
<u>Center for Health Data, Vital Records and Statistics</u>						
R436-55	Hemp Extract Registration	38537	NEW	07/08/2014	2014-11/155	
<u>Children's Health Insurance Program</u>						
R382-3	Accountable Care Organization Incentives to Appropriately Use Emergency Room Services in the Children's Health Insurance Program	38102	NEW	01/13/2014	2013-23/23	
R382-10	Eligibility	38400	AMD	06/01/2014	2014-8/18	
R382-10	Eligibility	38817	AMD	11/01/2014	2014-18/13	
<u>Disease Control and Prevention, Environmental Services</u>						
R392-101	Food Safety Manager Certification	38229	5YR	01/10/2014	2014-3/49	
R392-104	Feeding Disadvantaged Groups	38656	NEW	09/12/2014	2014-14/53	
R392-200-4	Site Standards	38177	AMD	02/19/2014	2014-1/24	
R392-302	Design, Construction, and Operation of Public Pools	38089	AMD	02/14/2014	2013-22/69	
R392-303	Public Geothermal Pools and Bathing Places	38285	5YR	02/11/2014	2014-5/60	
R392-303	Public Geothermal Pools and Bathing Places	38176	AMD	02/24/2014	2014-1/25	
<u>Disease Control and Prevention, Epidemiology</u>						
R386-80	Local Public Health Emergency Funding Protocols	38662	NEW	10/24/2014	2014-14/51	
<u>Disease Control and Prevention, Health Promotion</u>						
R384-100	Cancer Reporting Rule	38367	5YR	03/18/2014	2014-8/38	
R384-200	Program Eligibility, Benefits, and Administration	38178	NEW	03/21/2014	2014-1/22	
R384-203	Prescription Drug Database Access	38081	NEW	03/01/2014	2013-22/68	
<u>Disease Control and Prevention, Medical Examiner</u>						
R448-10	Unattended Death and Reporting Requirements	38419	5YR	04/07/2014	2014-9/55	
R448-20	Access to Medical Examiner Reports	38420	5YR	04/07/2014	2014-9/55	

Family Health and Preparedness, Child Care Licensing

R430-6	Background Screening	38544	AMD	08/15/2014	2014-12/40
R430-8	Exemptions From Child Care Licensing	38453	5YR	04/25/2014	2014-10/113
R430-70	Out of School Time Child Care Programs	38543	5YR	05/19/2014	2014-12/55

Family Health and Preparedness, Children with Special Health Care Needs

R398-1	Newborn Screening	38319	AMD	07/01/2014	2014-6/25
R398-1	Newborn Screening	38839	5YR	09/04/2014	2014-19/80
R398-4	Cytomegalovirus Public Health Initiative	38139	NEW	01/17/2014	2013-23/25
R398-5	Birth Defects Reporting	38830	5YR	09/02/2014	2014-18/91
R398-10	Autism Spectrum Disorders and Mental Retardation Reporting	38339	5YR	03/12/2014	2014-7/92
R398-10	Autism Spectrum Disorders and Mental Retardation Reporting	38340	NSC	04/01/2014	Not Printed
R398-20	Early Intervention	37984	AMD	01/28/2014	2013-19/61

Family Health and Preparedness, Emergency Medical Services

R426-5-2600	Refusal, Suspension, or Revocation of Certification	38672	NSC	07/31/2014	Not Printed
R426-8	Emergency Medical Services Ambulance Rates and Charges	38272	AMD	03/24/2014	2014-4/42
R426-100	Air Medical Service Rules	38079	REP	01/06/2014	2013-22/119

Family Health and Preparedness, Licensing

R432-2-5	Requirements for a Satellite Service Operation	38086	AMD	01/24/2014	2013-22/123
R432-3	General Health Care Facility Rules Inspection and Enforcement	38173	AMD	02/27/2014	2014-1/37
R432-7	Specialty Hospital - Psychiatric Hospital Construction	38391	5YR	04/01/2014	2014-8/40
R432-8	Specialty Hospital - Chemical Dependency/Substance Abuse Construction	38392	5YR	04/01/2014	2014-8/41
R432-9	Specialty Hospital - Rehabilitation Construction Rule	38393	5YR	04/01/2014	2014-8/41
R432-10	Specialty Hospital - Long-Term Acute Care Construction Rule	38394	5YR	04/01/2014	2014-8/42
R432-11	Orthopedic Hospital Construction	38395	5YR	04/01/2014	2014-8/42
R432-12	Small Health Care Facility (Four to Sixteen Beds) Construction Rule	38396	5YR	04/01/2014	2014-8/43
R432-13	Freestanding Ambulatory Surgical Center Construction Rule	38397	5YR	04/01/2014	2014-8/43
R432-14	Birth Center Construction Rule	38422	5YR	04/10/2014	2014-9/54
R432-30	Adjudicative Procedure	38398	5YR	04/01/2014	2014-8/44
R432-32	Licensing Exemption for Non-Profit Volunteer End-of-Life Care	38399	5YR	04/01/2014	2014-8/44
R432-45	Nurse Aide Training and Competency Evaluation Program	38654	NEW	08/25/2014	2014-14/58
R432-270	Assisted Living Facilities	38423	5YR	04/10/2014	2014-9/54
R432-270	Assisted Living Facilities	38341	AMD	05/20/2014	2014-7/65

Family Health and Preparedness, Primary Care and Rural Health

R434-30	Primary Care Grants Program for Medically Underserved Populations	38637	AMD	08/21/2014	2014-14/64
R434-40	Utah Health Care Workforce Financial Assistance Program Rules	38305	NEW	05/08/2014	2014-6/53

Health Care Financing, Coverage and Reimbursement Policy

R414-1-5	Incorporations by Reference	38191	AMD	05/01/2014	2014-1/32
R414-1-5	Incorporations by Reference	38381	AMD	07/28/2014	2014-8/22
R414-1-5	Incorporations by Reference	38599	AMD	08/19/2014	2014-13/89
R414-1-5	Incorporations by Reference	38882	AMD	11/21/2014	2014-20/51
R414-1B	Prohibition of Payment for Certain Abortion Services	38369	5YR	03/18/2014	2014-8/39
R414-7A	Medicaid Certification of New Nursing Facilities	38560	5YR	05/30/2014	2014-12/54
R414-7B	Nurse Aide Training and Competency Evaluation Program	38655	REP	08/25/2014	2014-14/54
R414-9	Federally Qualified Health Centers	38528	AMD	07/11/2014	2014-11/150
R414-10A-6	Prior Authorization	38430	AMD	06/11/2014	2014-9/27

RULES INDEX

R414-11	Podiatric Services	38371	5YR	03/18/2014	2014-8/39
R414-13	Psychology Services	38705	AMD	09/25/2014	2014-16/5
R414-14	Home Health Services	38130	AMD	01/10/2014	2013-23/26
R414-14	Home Health Services	38561	5YR	05/30/2014	2014-12/54
R414-14A	Hospice Care	38630	5YR	06/17/2014	2014-14/80
R414-21	Physical and Occupational Therapy	38132	AMD	01/10/2014	2013-23/28
R414-31	Inpatient Psychiatric Services for Individuals Under Age 21	38650	5YR	06/24/2014	2014-14/80
R414-33B	Substance Abuse Targeted Case Management	38706	REP	09/25/2014	2014-16/6
R414-33D	Targeted Case Management by Community Mental Health Centers for Individuals with Serious Mental Illness	38707	AMD	09/25/2014	2014-16/8
R414-34	Substance Abuse Services	38708	REP	09/25/2014	2014-16/11
R414-35	Mental Health Services for Children in State Custody	38709	REP	09/25/2014	2014-16/12
R414-36	Services by Community Mental Health Centers	38710	AMD	09/25/2014	2014-16/14
R414-36	Rehabilitative Mental Health and Substance Use Disorder Services	38897	5YR	10/03/2014	2014-21/91
R414-45	Personal Supervision by a Physician	38431	REP	06/11/2014	2014-9/29
R414-49	Dental Services	38133	AMD	01/10/2014	2013-23/30
R414-49	Dental Services	38201	NSC	01/23/2014	Not Printed
R414-49	Dental, Oral and Maxillofacial Surgeons and Orthodontia	38631	5YR	06/17/2014	2014-14/81
R414-50	Dental, Oral and Maxillofacial Surgeons	38134	REP	01/10/2014	2013-23/32
R414-51	Dental, Orthodontia	38135	REP	01/10/2014	2013-23/33
R414-54	Speech-Language Pathology Services	38227	5YR	01/07/2014	2014-3/50
R414-54	Speech-Language Pathology Services	38613	AMD	08/26/2014	2014-13/94
R414-58 (Changed to R414-10B)	Children's Organ Transplants	38821	NSC	09/15/2014	Not Printed
R414-59	Audiology-Hearing Services	38614	AMD	08/26/2014	2014-13/95
R414-61	Home and Community-Based Services Waivers	38318	AMD	04/21/2014	2014-6/29
R414-61	Home and Community-Based Services Waivers	38927	5YR	10/30/2014	2014-22/41
R414-61-2	Incorporation by Reference	38703	AMD	09/26/2014	2014-16/16
R414-90	Diabetes Self-Management Training	38368	5YR	03/18/2014	2014-8/40
R414-99	Chiropractic Services	38529	AMD	07/11/2014	2014-11/151
R414-140	Choice of Health Care Delivery Program	38791	5YR	08/19/2014	2014-18/92
R414-303	Coverage Groups	38401	AMD	06/01/2014	2014-8/27
R414-303	Coverage Groups	38465	AMD	07/01/2014	2014-10/51
R414-303-9	Subsidized Adoptions	38888	AMD	12/01/2014	2014-20/56
R414-303-11	Presumptive Pregnant Woman and Child Medicaid	38818	AMD	11/01/2014	2014-18/16
R414-304	Income and Budgeting	38724	AMD	10/01/2014	2014-16/17
R414-304-5	MAGI-Based Coverage Groups	38317	AMD	04/21/2014	2014-6/30
R414-305	Resources	38725	AMD	10/01/2014	2014-16/20
R414-306	Program Benefits and Date of Eligibility	38466	AMD	07/01/2014	2014-10/53
R414-306-5	Medical Transportation	38129	AMD	01/10/2014	2013-23/35
R414-308-6	Eligibility Period and Reviews	38889	AMD	12/01/2014	2014-20/57
R414-310	Medicaid Primary Care Network Demonstration Waiver	38321	AMD	04/21/2014	2014-6/32
R414-310	Medicaid Primary Care Network Demonstration Waiver	38815	EMR	09/01/2014	2014-18/83
R414-320	Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver	38322	AMD	04/21/2014	2014-6/42
R414-320	Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver	38816	EMR	09/01/2014	2014-18/85
R414-320	Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver	38819	AMD	11/01/2014	2014-18/18
R414-401	Nursing Care Facility Assessment	38418	5YR	04/07/2014	2014-9/53
R414-401-3	Assessment	38478	AMD	07/01/2014	2014-10/53
R414-501	Preadmission Authorization, Retroactive Authorization, and Continued Stay Review	38632	5YR	06/17/2014	2014-14/82
R414-502	Nursing Facility Levels of Care	38633	5YR	06/17/2014	2014-14/82
R414-503	Preadmission Screening and Resident Review	38141	R&R	01/07/2014	2013-23/37
R414-503	Preadmission Screening and Resident Review	38660	5YR	07/01/2014	2014-14/83
R414-503-2	Definitions	38584	NSC	06/18/2014	Not Printed

R414-510	Intermediate Care Facility for Persons with Intellectual Disabilities Transition Program	38532	AMD	07/15/2014	2014-11/153
R414-511	Medicaid Accountable Care Organization Incentives to Appropriately Use Emergency Room Services	38103	NEW	01/13/2014	2013-23/42

HERITAGE AND ARTS

History

R455-11	Historic Preservation Tax Credit	38932	5YR	11/03/2014	2014-23/56
R455-13	Capital Funds Request Prioritization	38923	5YR	10/28/2014	2014-22/41
R455-14	Procedures for Electronic Meetings	38331	NEW	07/21/2014	2014-7/70
R455-15	Procedures for Emergency Meetings	38333	NEW	07/21/2014	2014-7/71

HOUSING CORPORATION (UTAH)

Administration

R460-3-1	Single-Family Mortgage Program	38788	AMD	10/09/2014	2014-17/110
R460-6	Adjudicative Proceedings	38452	AMD	07/10/2014	2014-10/55

HUMAN RESOURCE MANAGEMENT

Administration

R477-1	Definitions	38456	AMD	07/01/2014	2014-10/57
R477-2-3	Fair Employment Practice and Discrimination	38457	AMD	07/01/2014	2014-10/62
R477-3-4	Position Classification Review	38454	AMD	07/01/2014	2014-10/63
R477-4	Filling Positions	38458	AMD	07/01/2014	2014-10/63
R477-4-4	Recruitment and Selection for Career Service Positions	38077	AMD	01/14/2014	2013-22/124
R477-6	Compensation	38469	AMD	07/01/2014	2014-10/67
R477-6-9	Severance Benefit	38092	AMD	01/14/2014	2013-22/125
R477-7	Leave	38084	AMD	01/14/2014	2013-22/126
R477-7	Leave	38455	AMD	07/01/2014	2014-10/71
R477-8	Working Conditions	38459	AMD	07/01/2014	2014-10/80
R477-9	Employee Conduct	38460	AMD	07/01/2014	2014-10/84
R477-10-1	Performance Evaluation	38461	AMD	07/01/2014	2014-10/87
R477-14	Substance Abuse and Drug-Free Workplace	38462	AMD	07/01/2014	2014-10/88
R477-15	Workplace Harassment Prevention	38463	AMD	07/01/2014	2014-10/90
R477-101	Administrative Law Judge Conduct Committee	38091	NEW	01/14/2014	2013-22/129
R477-101	Administrative Law Judge Conduct Committee	38464	AMD	07/01/2014	2014-10/92

HUMAN SERVICES

Administration

R495-882	Termination of Parental Rights	38280	5YR	02/10/2014	2014-5/61
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Administration, Administrative Services, Licensing

R501-12	Child Foster Care	38862	R&R	11/17/2014	2014-19/49
R501-21	Outpatient Treatment Programs	38812	AMD	11/03/2014	2014-18/22
R501-22	Residential Support Programs	38835	AMD	10/23/2014	2014-18/25

Aging and Adult Services

R510-104	Nutrition Programs for the Elderly (NPE)	38670	5YR	07/02/2014	2014-15/67
R510-400-16	Termination of Services	38671	AMD	10/08/2014	2014-15/53

Child and Family Services

R512-41	Qualifying Adoptive Families and Adoption Placement	38263	5YR	01/28/2014	2014-4/72
R512-43	Adoption Assistance	38217	AMD	03/10/2014	2014-3/15
R512-75	Rules Governing Adjudication of Consumer Complaints	38264	5YR	01/28/2014	2014-4/72
R512-306	Out-of-Home Services, Transition to Adult Living Services, Education and Training Voucher Program	38265	5YR	01/28/2014	2014-4/73
R512-310	Reasonable and Prudent Parent Standard	38743	NEW	10/08/2014	2014-17/112

RULES INDEX

Recovery Services

R527-10	Disclosure of Information to the Office of Recovery Services	38728	5YR	08/04/2014	2014-17/138
R527-38	Unenforceable Cases	38277	5YR	02/05/2014	2014-5/61
R527-40	Retained Support	38836	5YR	09/03/2014	2014-19/81
R527-275	Passport Release	38336	5YR	03/06/2014	2014-7/93
R527-332	Unreimbursed Assistance Calculation	38550	5YR	05/22/2014	2014-12/55
R527-394	Posting Bond or Security	38551	5YR	05/22/2014	2014-12/56
R527-450	Federal Tax refund Intercept	38729	5YR	08/04/2014	2014-17/138
R527-450	Federal Tax Refund Intercept	38924	NSC	11/07/2014	Not Printed

Services for People with Disabilities

R539-2	Service Coordination	38745	5YR	08/07/2014	2014-17/139
R539-3	Rights and Protections	38746	5YR	08/07/2014	2014-17/139
R539-4	Behavior Interventions	38891	5YR	09/30/2014	2014-20/75
R539-5	Self-Administered Services	38892	5YR	09/30/2014	2014-20/75

Substance Abuse and Mental Health

R523-1	Procedures	38297	REP	04/07/2014	2014-5/27
R523-4	Local Mental Health Authorities and Local Substance Abuse Authorities	38292	NEW	04/07/2014	2014-5/36
R523-5	Certification of Designated Examiners and Case Managers	38293	NEW	04/07/2014	2014-5/42
R523-6	Medication, Psychosurgery and Electroshock Procedures for Children, Consumer Rights, Due Process, Family Involvement	38298	NEW	04/07/2014	2014-5/45
R523-22	Utah Standards for Approval of Alcohol and Drug Educational Programs for Court-Referred DUI Offenders	38451	AMD	06/26/2014	2014-10/96

INSURANCE

Administration

R590-67	Proxy Solicitations and Consent and Authorization of Stockholders of Domestic Stock Insurers	38828	5YR	08/29/2014	2014-18/92
R590-76	Health Maintenance Organizations	38827	5YR	08/29/2014	2014-18/93
R590-79	Life Insurance Disclosure Rule	38795	5YR	08/20/2014	2014-18/93
R590-83	Unfair Discrimination on the Basis of Sex or Marital Status	38793	5YR	08/20/2014	2014-18/94
R590-93	Replacement of Life Insurance and Annuities	38413	5YR	04/07/2014	2014-9/56
R590-96	Rule to Recognize New Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities	38069	AMD	01/21/2014	2013-22/137
R590-98	Unfair Practice in Payment of Life Insurance and Annuity Policy Values	38414	5YR	04/07/2014	2014-9/56
R590-127	Rate Filing Exemptions	38799	5YR	08/20/2014	2014-18/94
R590-129	Unfair Discrimination Based Solely Upon Blindness or Physical or Mental Impairment	38794	5YR	08/20/2014	2014-18/95
R590-166	Home Protection Service Contract Rule	38417	5YR	04/07/2014	2014-9/57
R590-167	Individual, Small Employer, and Group Health Benefit Plan Rule	38798	5YR	08/20/2014	2014-18/95
R590-170	Fiduciary and Trust Account Obligations	38283	5YR	02/11/2014	2014-5/62
R590-170-4	Establishing the Trust Account	38823	AMD	10/30/2014	2014-18/29
R590-171	Surplus Lines Procedures Rule	38555	5YR	05/27/2014	2014-12/56
R590-172	Notice to Uninsurable Applicants for Health Insurance	38787	REP	10/10/2014	2014-17/114
R590-186-8	Investigating Unprofessional Conduct	38273	AMD	03/26/2014	2014-4/43
R590-190	Unfair Property, Liability and Title Claims Settlement Practices Rule	38416	5YR	04/07/2014	2014-9/57
R590-191	Unfair Life Insurance Claims Settlement Practices Rule	38415	5YR	04/07/2014	2014-9/58
R590-192	Unfair Accident and Health Claims Settlement Practices	38635	5YR	06/17/2014	2014-14/83
R590-194	Coverage of Dietary Products for Inborn Errors of Amino Acid or Urea Cycle Metabolism	38796	5YR	08/20/2014	2014-18/96

R590-195	Car Rental Related Licensing Rule	38307	5YR	02/20/2014	2014-6/75
R590-195	Car Rental Related Licensing Rule	38308	REP	04/22/2014	2014-6/59
R590-196	Bail Bond Surety Fee Standards, Collateral Standards and Disclosure Form	38966	5YR	11/21/2014	Not Printed
R590-197	Treatment of Guaranty Association Assessments as Qualified Assets	38967	5YR	11/21/2014	Not Printed
R590-198	Valuation of Life Insurance Policies Rule	38968	5YR	11/21/2014	Not Printed
R590-199	Plan of Orderly Withdrawal Rule Relating to Health Benefit Plans	38784	AMD	10/10/2014	2014-17/115
R590-220	Submission of Accident and Health Insurance Filings	38311	5YR	02/24/2014	2014-6/75
R590-225	Submission of Property and Casualty Rate and Form Filings	38309	5YR	02/20/2014	2014-6/76
R590-226	Submission of Life Insurance Filings	38364	5YR	03/18/2014	2014-8/45
R590-226-5	Filing Submission Requirements	38290	NSC	02/27/2014	Not Printed
R590-227	Submission of Annuity Filings	38365	5YR	03/18/2014	2014-8/45
R590-227-5	Filing Submission Requirements	38291	AMD	04/09/2014	2014-5/49
R590-227-5	Filing Submission Requirements	38424	NSC	05/01/2014	Not Printed
R590-227-10	Classification of Documents	38800	NSC	09/15/2014	Not Printed
R590-228	Submission of Credit Life and Credit Accident and Health Insurance Form and Rate Filings	38366	5YR	03/18/2014	2014-8/46
R590-229	Annuity Disclosure	38090	AMD	03/11/2014	2013-22/139
R590-229	Annuity Disclosure	38090	CPR	03/11/2014	2014-3/44
R590-229	Annuity Disclosure	38797	5YR	08/20/2014	2014-18/96
R590-229-9	Enforcement Date	38342	AMD	05/27/2014	2014-7/72
R590-230	Suitability in Annuity Transactions	38559	5YR	05/30/2014	2014-12/57
R590-232	Authorization for a Health Maintenance Organization to Provide Services as Third Party Administrator of Health Care Benefits	38969	5YR	11/21/2014	Not Printed
R590-236	HIPAA Eligibility Following Receipt of a Certificate of Insurability or Denial by an Individual Carrier	38785	REP	10/10/2014	2014-17/117
R590-244	Individual and Agency Licensing Requirements	38620	5YR	06/16/2014	2014-13/141
R590-249	Secondary Medical Condition Exclusion	38786	AMD	10/10/2014	2014-17/119
R590-249-1	Authority	38286	NSC	02/27/2014	Not Printed
R590-252	Use of Senior-Specific Certifications and Professional Designations	38282	5YR	02/11/2014	2014-5/62
R590-254	Annual Financial Reporting Rule	38669	5YR	07/02/2014	2014-15/68
R590-255	Utah NetCare Alternative Coverage Notification Rule	38789	REP	10/10/2014	2014-17/121
R590-258-1	Authority	38284	NSC	02/27/2014	Not Printed
R590-263	Commonly Selected Health Benefit Plans	38726	REP	10/10/2014	2014-16/25
R590-268	Small Employer Stop-Loss Insurance	38087	NEW	03/13/2014	2013-22/142
R590-268	Small Employer Stop-Loss Insurance	38087	CPR	03/13/2014	2014-3/45
R590-269	Individual Open Enrollment Period	38088	NEW	01/13/2014	2013-22/144
R590-269-4	Open and Special Enrollment Periods	38376	AMD	06/02/2014	2014-8/29
R590-270	Risk Adjustment Data Submission Requirements	38534	NEW	09/22/2014	2014-11/158
<u>Title and Escrow Commission</u>					
R592-6	Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business	38612	5YR	06/13/2014	2014-13/142
R592-7	Title Insurance Continuing Education Program	38606	5YR	06/13/2014	2014-13/143
R592-8	Application Process for an Attorney Exemption for Agency Title Insurance Producer Licensing	38607	5YR	06/13/2014	2014-13/143
R592-8-5	Request for Exemption Process	38246	AMD	03/10/2014	2014-3/20
R592-9	Title Insurance Recovery, Education, and Research Fund Assessment Rule	38608	5YR	06/13/2014	2014-13/144
R592-11	Title Insurance Producer Annual and Controlled Business Reports	38156	AMD	03/10/2014	2013-24/34
R592-11	Title Insurance Producer Annual and Controlled Business Reports	38156	CPR	03/10/2014	2014-4/64
JUDICIAL PERFORMANCE EVALUATION COMMISSION					
<u>Administration</u>					
R597-1	General Provisions	38303	5YR	02/17/2014	2014-6/77

RULES INDEX

R597-3	Judicial Performance Evaluations	38304	5YR	02/17/2014	2014-6/77
R597-3	Judicial Performance Evaluations	38438	AMD	06/12/2014	2014-9/30
R597-3	Judicial Performance Evaluations	38595	AMD	08/08/2014	2014-13/97
R597-4	Justice Courts	38440	NEW	06/12/2014	2014-9/34

LABOR COMMISSION

Adjudication

R602-2	Adjudication of Workers' Compensation and Occupational Disease Claims	38306	AMD	04/22/2014	2014-6/61
R602-2-4	Attorney Fees	38554	AMD	07/22/2014	2014-12/41
R602-2-5	Timeliness of Decisions	38193	AMD	02/21/2014	2014-2/7
R602-7	Adjudication of Discrimination Claims	38327	5YR	03/05/2014	2014-7/94
R602-8	Adjudication of Utah Occupational Safety and Health Citation Claims	38328	5YR	03/05/2014	2014-7/94

Boiler and Elevator Safety

R616-2-3	Safety Codes and Rules for Boilers and Pressure Vessels	38226	AMD	03/10/2014	2014-3/22
R616-3-3	Safety Codes for Elevators	38378	AMD	05/22/2014	2014-8/31

Industrial Accidents

R612-100-1	Authority	38809	AMD	10/22/2014	2014-18/31
R612-100-2	Definitions	38805	AMD	10/22/2014	2014-18/32
R612-100-3	Official Forms	38811	AMD	10/22/2014	2014-18/35
R612-200	Workers' Compensation Rules - Filing and Paying Claims	38806	AMD	10/22/2014	2014-18/38
R612-200-8	Burial Expenses	38553	AMD	07/22/2014	2014-12/43
R612-300	Workers' Compensation Rules - Medical Care	38810	AMD	10/22/2014	2014-18/46
R612-300-4	General Method for Computing Medical Fees	38881	AMD	11/24/2014	2014-20/59
R612-400-1	Notification of Workers' Compensation Insurance Coverage	38803	AMD	10/22/2014	2014-18/55
R612-400-2	Employee Leasing Company Workers' Compensation Policy Endorsements	38804	AMD	10/22/2014	2014-18/56
R612-400-3	Workers' Compensation Rules Self-Insurance	38808	AMD	10/22/2014	2014-18/58
R612-400-4	Waivers	38807	AMD	10/22/2014	2014-18/63

LIEUTENANT GOVERNOR

Administration

R622-2	Use of the Great Seal of the State of Utah	38379	5YR	03/24/2014	2014-8/46
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Elections

R623-1	Lieutenant Governor's Procedure for Regulation of Lobbyist Activities	38383	5YR	03/26/2014	2014-8/47
R623-2	Uniform Ballot Counting Standards	38384	5YR	03/26/2014	2014-8/47
R623-3	Utah State Plan on Election Reform	38385	5YR	03/26/2014	2014-8/48

MONEY MANAGEMENT COUNCIL

Administration

R628-19	Requirements for the Use of Investment Advisers by Public Treasurers	38281	5YR	02/10/2014	2014-5/63
R628-20	Foreign Deposits for Higher Education Institutions	38179	NEW	02/18/2014	2014-1/41
R628-21	Conditions and Procedures for the Use of Reciprocal Deposits	38180	NEW	04/15/2014	2014-1/42
R628-21	Conditions and Procedures for the Use of Reciprocal Deposits	38180	CPR	04/15/2014	2014-6/70

NATURAL RESOURCES

Forestry, Fire and State Lands

R652-70-2300	Management of Bear Lake Sovereign Lands	38658	AMD	09/23/2014	2014-14/65
R652-120	Wildland Fire	38948	5YR	11/11/2014	2014-23/57

Oil, Gas and Mining: Coal

R645-105	Blaster Training, Examination and Certification	38738	5YR	08/05/2014	2014-17/140
R645-106	Exemption for Coal Extraction Incidental to the Extraction of Other Minerals	38740	5YR	08/05/2014	2014-17/141
R645-400	Inspection and Enforcement: Division Authority and Procedures	38739	5YR	08/05/2014	2014-17/141

Oil, Gas and Mining: Oil and Gas

R649-10	Administrative Procedures	38741	5YR	08/05/2014	2014-17/142
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Parks and Recreation

R651-102	Government Records Access Management Act	38343	NSC	04/01/2014	Not Printed
R651-205	Zoned Waters	38444	AMD	06/09/2014	2014-9/36
R651-213	Dealer Numbers and Registrations	38443	AMD	06/09/2014	2014-9/37
R651-213	Dealer Numbers and Registrations	38488	NSC	06/24/2014	Not Printed
R651-409	Minimum Amounts of Liability Insurance Coverage for an Organized Practice or Sanctioned Race	38441	AMD	06/09/2014	2014-9/38
R651-411	OHV Use in State Parks	38216	5YR	01/02/2014	2014-3/51
R651-608	Events of Special Uses	38439	AMD	06/09/2014	2014-9/40
R651-619	Possession of Alcoholic Beverages or Controlled Substances	38442	AMD	06/09/2014	2014-9/41
R651-636	Procedures for Application to Receive Funds From the Zion National Park Restricted Account	38225	5YR	01/06/2014	2014-3/51
R651-700	Administrative Procedures for Real Property Management	38224	5YR	01/06/2014	2014-3/52

Water Rights

R655-3	Reports of Water Rights Conveyance	38723	5YR	08/01/2014	2014-16/59
R655-4	Water Wells	38722	5YR	08/01/2014	2014-16/60
R655-13	Stream Alteration	38267	5YR	01/29/2014	2014-4/73

Wildlife Resources

R657-3	Collection, Importation, Transportation, and Possession of Animals	38616	AMD	08/11/2014	2014-13/100
R657-5	Taking Big Game	38168	AMD	02/10/2014	2014-1/44
R657-6	Taking Upland Game	38600	AMD	08/11/2014	2014-13/102
R657-9	Taking Waterfowl, Common Snipe and Coot	38605	AMD	08/11/2014	2014-13/106
R657-10	Taking Cougar	38231	AMD	03/11/2014	2014-3/23
R657-10	Taking Cougar	38849	AMD	11/07/2014	2014-19/69
R657-11	Taking Furbearers	38848	AMD	11/07/2014	2014-19/71
R657-12	Hunting and Fishing Accommodations for People with Disabilities	38169	AMD	02/10/2014	2014-1/52
R657-13	Taking Fish and Crayfish	38167	AMD	02/10/2014	2014-1/54
R657-13	Taking Fish and Crayfish	38316	AMD	04/21/2014	2014-6/66
R657-13	Taking Fish and Crayfish	38483	AMD	07/08/2014	2014-11/160
R657-27	License Agent Procedures	38230	AMD	03/11/2014	2014-3/26
R657-38	Dedicated Hunter Program	38170	AMD	02/10/2014	2014-1/61
R657-41	Conservation and Sportsman Permits	38171	AMD	02/10/2014	2014-1/68
R657-43	Landowner Permits	38232	AMD	03/11/2014	2014-3/30
R657-45	Wildlife License, Permit, and Certificate of Registration Forms	38482	AMD	07/08/2014	2014-11/163
R657-46	The Use of Game Birds in Dog Field Trials and Training	38558	5YR	05/29/2014	2014-12/58
R657-46	The Use of Game Birds in Dog Field Trials and Training	38603	AMD	08/11/2014	2014-13/109
R657-54	Taking Wild Turkey	38601	AMD	08/11/2014	2014-13/111
R657-54	Taking Wild Turkey	38790	5YR	08/18/2014	2014-18/97
R657-60	Aquatic Invasive Species Interdiction	38236	AMD	03/11/2014	2014-3/32
R657-60	Aquatic Invasive Species Interdiction	38477	AMD	06/24/2014	2014-10/99
R657-62	Drawing Application Procedures	38427	5YR	04/14/2014	2014-9/58
R657-62	Drawing Application Procedures	38604	AMD	08/11/2014	2014-13/115
R657-67	Utah Hunter Mentoring Program	38172	NEW	02/10/2014	2014-1/70
R657-67	Utah Hunter Mentoring Program	38484	AMD	07/08/2014	2014-11/165
R657-68	Trial Hunting Authorization	38602	NEW	08/11/2014	2014-13/120
R657-68	Trial Hunting Authorization	38950	NSC	11/28/2014	Not Printed

RULES INDEX

R657-69	Turkey Depredation	38847	NEW	11/07/2014	2014-19/73
PARDONS (BOARD OF)					
<u>Administration</u>					
R671-102	Americans with Disabilities Act Complaint Procedures	38324	AMD	05/08/2014	2014-7/76
R671-102	Americans with Disabilities Act Complaint Procedures	38879	5YR	09/22/2014	2014-20/76
R671-103	Attorneys	38877	5YR	09/22/2014	2014-20/76
R671-103-1	Attorneys	38713	AMD	09/29/2014	2014-16/26
R671-201	Original Parole Grant Hearing Schedule and Notice	38325	AMD	05/08/2014	2014-7/78
R671-201	Original Parole Grant Hearing Schedule and Notice	38878	5YR	09/22/2014	2014-20/77
R671-201-1	Schedule and Notice	38314	EMR	03/01/2014	2014-6/73
R671-309	Impartial Hearings	38896	5YR	10/02/2014	2014-21/92
R671-309-1	Ex-Parte Communications	38629	AMD	09/29/2014	2014-13/122
R671-309-2	Recusal	38876	AMD	11/24/2014	2014-20/61
R671-514	Waiver and Pleas of Guilt	38875	AMD	11/24/2014	2014-20/62
PUBLIC EDUCATION JOB ENHANCEMENT PROGRAM					
<u>Job Enhancement Committee</u>					
R690-100	Public Education Job Enhancement Program Participant Eligibility and Requirements	38243	REP	03/10/2014	2014-3/37
PUBLIC SAFETY					
<u>Administration</u>					
R698-4	Certification of the Law Enforcement Agency of a Private College or University	38310	5YR	02/21/2014	2014-6/78
R698-5	Hazardous Chemical Emergency Response Commission	38762	5YR	08/14/2014	2014-17/142
<u>Criminal Investigations and Technical Services, Criminal Identification</u>					
R722-310	Regulation of Bail Bond Recovery and Enforcement Agents	38873	AMD	11/21/2014	2014-20/64
<u>Driver License</u>					
R708-7	Functional Ability in Driving: Guidelines for Physicians	38487	NSC	05/29/2014	Not Printed
R708-10	Driver License Restrictions	38370	5YR	03/18/2014	2014-8/48
R708-22	Commercial Driver License Administrative Proceedings	38406	5YR	04/03/2014	2014-9/59
R708-22	Commercial Driver License Administrative Proceedings	38485	NSC	05/29/2014	Not Printed
R708-24	Renewal of a Commercial Driver License (CDL)	38407	5YR	04/03/2014	2014-9/59
R708-24	Renewal of a Commercial Driver License (CDL)	38486	NSC	05/29/2014	Not Printed
R708-26	Learner Permit Rule	38373	5YR	03/18/2014	2014-8/49
R708-26	Learner Permit Rule	38372	NSC	04/14/2014	Not Printed
R708-31	Ignition Interlock Systems	38196	AMD	02/21/2014	2014-2/8
R708-31	Ignition Interlock Systems	38374	5YR	03/18/2014	2014-8/49
R708-45	Renewal or Duplicate License for Utah Residents Temporarily Residing Out of State	38941	5YR	11/07/2014	2014-23/57
<u>Emergency Management</u>					
R704-1	Search and Rescue Financial Assistance Program	38688	5YR	07/07/2014	2014-15/68
R704-1	Search and Rescue Financial Assistance Program	38704	R&R	09/29/2014	2014-16/27
R704-2	Statewide Mutual Aid Act Activation	38701	AMD	09/29/2014	2014-15/54
<u>Highway Patrol</u>					
R714-500	Chemical Analysis Standards and Training	38895	5YR	10/02/2014	2014-21/93
R714-600	Performance Standards for Tow Truck Motor Carriers	38711	5YR	07/22/2014	2014-16/61

Peace Officer Standards and Training

R728-205	Council Resolution of Public Safety Retirement Eligibility	38940	5YR	11/07/2014	2014-23/58
R728-502	Procedure for POST Instructor Certification	38377	5YR	03/19/2014	2014-8/50

PUBLIC SERVICE COMMISSION

Administration

R746-200-7	Termination of Service	38644	AMD	08/22/2014	2014-14/67
R746-340	Service Quality for Telecommunications Corporations	38363	AMD	05/27/2014	2014-8/32
R746-340-2	Records and Reports	38556	NSC	06/05/2014	Not Printed
R746-341	Lifeline/Link-up Rule	38198	AMD	02/24/2014	2014-2/9
R746-341	Lifeline/Link-up Rule	38545	AMD	08/06/2014	2014-12/44
R746-341	Lifeline/Link-Up Rule	38826	AMD	11/05/2014	2014-18/65
R746-343-15	Surcharge	38278	AMD	05/01/2014	2014-5/51
R746-350	Application to Discontinue Telecommunications Service	38234	5YR	01/13/2014	2014-3/52
R746-700	Complete Filings for General Rate Case and Major Plant Addition Applications	38874	5YR	09/22/2014	2014-20/77

REGENTS (BOARD OF)

Administration

R765-604	New Century Scholarship	38820	5YR	08/26/2014	2014-18/98
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Salt Lake Community College

R784-1	Government Records Access and Management Act Rules	38362	5YR	03/17/2014	2014-8/50
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University of Utah, Administration

R805-3	Overnight Camping and Campfires on University of Utah Property	38355	5YR	03/14/2014	2014-7/95
R805-4	Illegal, Harmful, and Disruptive Behavior on University of Utah Property	38918	5YR	10/16/2014	2014-22/42
R805-6	University of Utah Shooting Range Access and Use Requirements	38018	NEW	02/11/2014	2013-20/46

University of Utah, Museum of Natural History (Utah)

R807-1	Curation of Collections from State Lands	38354	5YR	03/14/2014	2014-7/95
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TAX COMMISSION

Auditing

R865-7H	Environmental Assurance Fee	38223	5YR	01/06/2014	2014-3/53
R865-16R	Severance Tax	38222	5YR	01/06/2014	2014-3/54
R865-19S-30	Sale of a Vehicle or Vessel by a Person Not Regularly Engaged in Business Pursuant to Utah Code Ann. Section 59-12-104	38237	NSC	01/30/2014	Not Printed
R865-19S-54	Governmental Exemption Pursuant to Utah Code Ann. Section 59-12-104	38596	AMD	08/28/2014	2014-13/124
R865-19S-83	Pollution Control Facilities Pursuant to Utah Code Ann. Section 59-12-104	38597	AMD	08/28/2014	2014-13/125

Property Tax

R884-24P-33	2014 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301	38822	AMD	10/23/2014	2014-18/69
R884-24P-73	Urban Farming Assessment Pursuant to Utah Code Ann. Section 59-2-1703	38598	AMD	08/28/2014	2014-13/126

TECHNOLOGY SERVICES

Administration

R895-4	Sub-Domain Naming Conventions for Executive Branch Agencies	38238	5YR	01/14/2014	2014-3/54
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RULES INDEX

R895-4	Sub-Domain Naming Conventions for Executive Branch Agencies	38239	NSC	01/30/2014	Not Printed
R895-6	IT Plan Submission Rule for Agencies	38386	5YR	03/27/2014	2014-8/51
R895-7	Acceptable Use of Information Technology Resources	38428	5YR	04/15/2014	2014-9/60
R895-7	Acceptable Use of Information Technology Resources	38470	AMD	09/11/2014	2014-10/100
R895-9	Utah Geographic Information Systems Advisory Council	38933	5YR	11/04/2014	2014-23/59
R895-13	Access to the Identity Theft Reporting Information System Database	38480	5YR	05/05/2014	2014-11/174

TRANSPORTATION

Motor Carrier

R909-2	Utah Size and Weight Rule	38619	5YR	06/16/2014	2014-13/144
R909-3	Standards for Utah School Buses	38215	5YR	01/02/2014	2014-3/55
R909-19	Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification	38449	AMD	07/08/2014	2014-10/102

Operations, Construction

R916-5	Health reform -- Health Insurance Coverage in State Contracts -- Implementation	38861	5YR	09/12/2014	2014-19/81
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Program Development

R926-12	Share the Road Bicycle Support Restricted Account	38919	5YR	10/22/2014	2014-22/42
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VETERANS' AFFAIRS

Administration

R978-1	Rules Governing Veterans' Affairs	38228	NSC	01/30/2014	Not Printed
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WORKFORCE SERVICES

Administration

R982-401	Energy Assistance: General Provisions	38714	AMD	10/01/2014	2014-16/32
R982-402	Energy Assistance Programs Standards	38715	AMD	10/01/2014	2014-16/34
R982-403	Energy Assistance Income Standards, Income Eligibility, and Payment Determination	38716	AMD	10/01/2014	2014-16/37
R982-405	Energy Assistance: Program Benefits	38717	AMD	10/01/2014	2014-16/40
R982-407	Energy Assistance: Records and Benefit Management	38718	AMD	10/01/2014	2014-16/41
R982-408	Energy Assistance: Special State Programs	38719	AMD	10/01/2014	2014-16/42

Employment Development

R986-100-117	Disqualification For Fraud (Intentional Program Violations or IPV's)	38158	AMD	03/01/2014	2013-24/36
R986-100-117	Disqualification For Fraud (Intentional Program Violations or IPV's)	38268	AMD	04/15/2014	2014-4/45
R986-200-204	Eligibility Requirements	38140	AMD	01/14/2014	2013-23/50
R986-200-207	Participation in Child Support Enforcement	38472	AMD	07/01/2014	2014-10/108
R986-200-218	Exceptions to the Time Limit	38720	AMD	10/01/2014	2014-16/43
R986-700	Child Care Assistance	38159	AMD	03/01/2014	2013-24/38
R986-700	Child Care Assistance	38269	AMD	04/15/2014	2014-4/46
R986-700	Child Care Assistance	38664	AMD	10/01/2014	2014-14/70
R986-900-902	Options and Waivers	38663	AMD	10/01/2014	2014-14/75
R986-900-902	Options and Waivers	38750	AMD	11/06/2014	2014-17/125

Unemployment Insurance

R994-305	Collection of Contributions	38965	5YR	11/20/2014	Not Printed
R994-309	Nonprofit Organizations	38665	5YR	07/01/2014	2014-14/84
R994-310	Coverage	38666	5YR	07/01/2014	2014-14/85
R994-311	Governmental Units and Indian Tribes	38667	5YR	07/01/2014	2014-14/85
R994-312	Employing Units Records	38668	5YR	07/01/2014	2014-14/86

R994-312-102 Examination of Employer Records: Scope and Authority 38248 AMD 04/15/2014 2014-3/41

RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)
 CPR = Change in Proposed Rule
 EMR = 120-Day (Emergency) Rule
 EXD = Expired Rule
 EXP = Expedited Rule
 EXT = Five-Year Review Extension
 GEX = Governor's Extension
 LNR = Legislative Nonreauthorization
 NEW = New Rule (Proposed Rule)
 NSC = Nonsubstantive Rule Change
 R&R = Repeal and Reenact (Proposed Rule)
 REP = Repeal (Proposed Rule)
 5YR = Five-Year Notice of Review and Statement of Continuation

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>abortion</u> Health, Health Care Financing, Coverage and Reimbursement Policy	38369	R414-1B	5YR	03/18/2014	2014-8/39
<u>acceptable use</u> Technology Services, Administration	38428 38470	R895-7 R895-7	5YR AMD	04/15/2014 09/11/2014	2014-9/60 2014-10/100
<u>access</u> Environmental Quality, Drinking Water	38535 38535	R309-545 R309-545	AMD CPR	11/10/2014 11/10/2014	2014-11/130 2014-16/48
<u>access to information</u> Administrative Services, Administration	38570 38569	R13-2 R13-2	5YR AMD	06/02/2014 07/22/2014	2014-12/53 2014-12/6
<u>accidents</u> Administrative Services, Fleet Operations	38073	R27-7-3	AMD	03/11/2014	2013-22/14
<u>accounts</u> Transportation, Program Development	38919	R926-12	5YR	10/22/2014	2014-22/42
<u>accounts receivable</u> Administrative Services, Debt Collection	38497 38496	R21-2 R21-3	NSC NSC	05/29/2014 05/29/2014	Not Printed Not Printed
<u>accreditation</u> Education, Administration	38434 38829	R277-410-5 R277-504	AMD 5YR	06/09/2014 09/02/2014	2014-9/13 2014-18/89
<u>acupuncture</u> Commerce, Occupational and Professional Licensing	38165	R156-72	AMD	02/10/2014	2014-1/8
<u>ADA complaint procedures</u> Crime Victim Reparations, Administration	38258 38498	R270-3 R270-3	EXT 5YR	01/27/2014 05/12/2014	2014-4/75 2014-11/171
<u>adhesives</u> Environmental Quality, Air Quality	38675 38675 38583	R307-342 R307-342 R307-342-3	AMD CPR AMD	12/01/2014 12/01/2014 09/04/2014	2014-15/11 2014-21/50 2014-13/37
<u>adjudicative proceedings</u> Environmental Quality, Solid and Hazardous Waste	38335	R315-12	NSC	04/01/2014	Not Printed

RULES INDEX

adjudicative process

Administrative Services, Debt Collection 38497 R21-2 NSC 05/29/2014 Not Printed

administrative law judges

Human Resource Management, Administration 38091 R477-101 NEW 01/14/2014 2013-22/129
 38464 R477-101 AMD 07/01/2014 2014-10/92

administrative offset

Administrative Services, Debt Collection 38496 R21-3 NSC 05/29/2014 Not Printed

administrative procedures

Education, Administration 38408 R277-102 5YR 04/04/2014 2014-9/51
 Education, Rehabilitation 38538 R280-150 5YR 05/15/2014 2014-11/172
 38539 R280-150 AMD 07/08/2014 2014-11/117
 Environmental Quality, Air Quality 38252 R307-103-1 NSC 01/31/2014 Not Printed
 Environmental Quality, Solid and Hazardous Waste 38610 R315-2-4 AMD 08/15/2014 2014-13/47
 Heritage and Arts, History 38331 R455-14 NEW 07/21/2014 2014-7/70
 38333 R455-15 NEW 07/21/2014 2014-7/71
 Human Resource Management, Administration 38454 R477-3-4 AMD 07/01/2014 2014-10/63
 38463 R477-15 AMD 07/01/2014 2014-10/90
 Labor Commission, Adjudication 38306 R602-2 AMD 04/22/2014 2014-6/61
 38554 R602-2-4 AMD 07/22/2014 2014-12/41
 38193 R602-2-5 AMD 02/21/2014 2014-2/7
 38327 R602-7 5YR 03/05/2014 2014-7/94
 38328 R602-8 5YR 03/05/2014 2014-7/94
 Labor Commission, Industrial Accidents 38809 R612-100-1 AMD 10/22/2014 2014-18/31
 38805 R612-100-2 AMD 10/22/2014 2014-18/32
 38811 R612-100-3 AMD 10/22/2014 2014-18/35
 Natural Resources, Forestry, Fire and State Lands 38658 R652-70-2300 AMD 09/23/2014 2014-14/65
 38948 R652-120 5YR 11/11/2014 2014-23/57
 Public Safety, Driver License 38487 R708-7 NSC 05/29/2014 Not Printed

administrative proceedings

Environmental Quality, Air Quality 38252 R307-103-1 NSC 01/31/2014 Not Printed
 Environmental Quality, Environmental Response and Remediation 38764 R311-201-12 AMD 10/10/2014 2014-17/76
 Environmental Quality, Solid and Hazardous Waste 38335 R315-12 NSC 04/01/2014 Not Printed
 Labor Commission, Industrial Accidents 38806 R612-200 AMD 10/22/2014 2014-18/38
 38553 R612-200-8 AMD 07/22/2014 2014-12/43
 Public Safety, Driver License 38406 R708-22 5YR 04/03/2014 2014-9/59
 38485 R708-22 NSC 05/29/2014 Not Printed

administrative responsibility

Human Resource Management, Administration 38457 R477-2-3 AMD 07/01/2014 2014-10/62

adoptions

Human Services, Child and Family Services 38263 R512-41 5YR 01/28/2014 2014-4/72
 38217 R512-43 AMD 03/10/2014 2014-3/15

aerospace

Environmental Quality, Air Quality 38687 R307-355 AMD 12/01/2014 2014-15/45
 38687 R307-355 CPR 12/01/2014 2014-21/81

air medical services

Health, Family Health and Preparedness, Emergency Medical Services 38079 R426-100 REP 01/06/2014 2013-22/119

air pollution

Environmental Quality, Administration 38525 R305-4 AMD 07/08/2014 2014-11/118
 Environmental Quality, Air Quality 38494 R307-101 5YR 05/08/2014 2014-11/172
 38493 R307-101-3 AMD 08/07/2014 2014-11/122
 38252 R307-103-1 NSC 01/31/2014 Not Printed
 38061 R307-110-17 AMD 01/09/2014 2013-21/8
 38261 R307-150 5YR 01/28/2014 2014-4/70
 38673 R307-202 AMD 10/06/2014 2014-15/6
 38104 R307-210-2 AMD 03/06/2014 2013-23/17

38492	R307-214	AMD	08/07/2014	2014-11/123	
38105	R307-214-3	AMD	03/06/2014	2013-23/18	
38166	R307-302	AMD	03/06/2014	2014-1/20	
37829	R307-335	AMD	06/02/2014	2013-15/23	
37829	R307-335	CPR	06/02/2014	2013-23/54	
37829	R307-335	CPR	06/02/2014	2014-7/85	
37829	R307-335	CPR	06/02/2014	2014-9/46	
38674	R307-335	AMD	12/01/2014	2014-15/8	
38674	R307-335	CPR	12/01/2014	2014-21/48	
38675	R307-342	AMD	12/01/2014	2014-15/11	
38675	R307-342	CPR	12/01/2014	2014-21/50	
38583	R307-342-3	AMD	09/04/2014	2014-13/37	
38676	R307-343	AMD	12/01/2014	2014-15/16	
38676	R307-343	CPR	12/01/2014	2014-21/56	
38678	R307-345	AMD	12/01/2014	2014-15/21	
38678	R307-345	CPR	12/01/2014	2014-21/61	
38679	R307-346	AMD	12/01/2014	2014-15/23	
38679	R307-346	CPR	12/01/2014	2014-21/63	
38680	R307-347	AMD	12/01/2014	2014-15/26	
38680	R307-347	CPR	12/01/2014	2014-21/65	
38681	R307-348	AMD	10/07/2014	2014-15/28	
38682	R307-349	AMD	12/01/2014	2014-15/30	
38682	R307-349	CPR	12/01/2014	2014-21/67	
38683	R307-350	AMD	12/01/2014	2014-15/32	
38683	R307-350	CPR	12/01/2014	2014-21/69	
38684	R307-352	AMD	12/01/2014	2014-15/34	
38684	R307-352	CPR	12/01/2014	2014-21/73	
38685	R307-353	AMD	12/01/2014	2014-15/39	
38685	R307-353	CPR	12/01/2014	2014-21/75	
38686	R307-354	AMD	12/01/2014	2014-15/40	
38686	R307-354	CPR	12/01/2014	2014-21/78	
38687	R307-355	AMD	12/01/2014	2014-15/45	
38687	R307-355	CPR	12/01/2014	2014-21/81	
38332	R307-357-4	AMD	05/08/2014	2014-7/16	
38495	R307-357-4	NSC	05/29/2014	Not Printed	
38491	R307-401-12	AMD	08/07/2014	2014-11/127	
37833	R307-401-19	AMD	01/06/2014	2013-15/29	
37833	R307-401-19	CPR	01/06/2014	2013-23/55	
38260	R307-405	5YR	01/28/2014	2014-4/70	
38489	R307-410-2	AMD	08/07/2014	2014-11/128	
38490	R307-410-6	AMD	08/07/2014	2014-11/129	
38579	R307-501	NEW	12/01/2014	2014-13/39	
38579	R307-501	CPR	12/01/2014	2014-21/84	
38580	R307-502	NEW	12/01/2014	2014-13/40	
38580	R307-502	CPR	12/01/2014	2014-21/86	
38581	R307-503	NEW	12/01/2014	2014-13/42	
38581	R307-503	CPR	12/01/2014	2014-21/87	
38582	R307-504	NEW	10/07/2014	2014-13/43	
<u>air travel</u>					
Administrative Services, Finance	38175	R25-7	AMD	02/07/2014	2014-1/4
	38471	R25-7	AMD	06/23/2014	2014-10/4
	38742	R25-7-8	AMD	10/08/2014	2014-17/12
<u>alarm company</u>					
Commerce, Occupational and Professional Licensing	38825	R156-55d	AMD	10/23/2014	2014-18/8
<u>alcohol</u>					
Public Safety, Highway Patrol	38895	R714-500	5YR	10/02/2014	2014-21/93
<u>alcoholic beverages</u>					
Alcoholic Beverage Control, Administration	38274	R81-1-16	AMD	03/25/2014	2014-4/10
	38323	R81-1-32	AMD	04/29/2014	2014-6/7
	38275	R81-7	AMD	03/25/2014	2014-4/11
	38276	R81-10b	AMD	03/25/2014	2014-4/14

RULES INDEX

<u>alimony</u>					
Human Services, Recovery Services	38729	R527-450	5YR	08/04/2014	2014-17/138
	38924	R527-450	NSC	11/07/2014	Not Printed
<u>allegations</u>					
Pardons (Board Of), Administration	38875	R671-514	AMD	11/24/2014	2014-20/62
<u>alternate multiple stage bid process</u>					
Administrative Services, Purchasing and General Services	38522	R33-25	NEW	07/08/2014	2014-11/97
<u>alternative fuels</u>					
Environmental Quality, Administration	38525	R305-4	AMD	07/08/2014	2014-11/118
<u>alternative licensing</u>					
Education, Administration	38240	R277-503	AMD	03/10/2014	2014-3/4
	38435	R277-503-4	AMD	06/09/2014	2014-9/14
<u>alternative procurement methods</u>					
Administrative Services, Purchasing and General Services	38507	R33-8	R&R	07/08/2014	2014-11/56
	38696	R33-8	5YR	07/08/2014	2014-15/65
<u>animal protection</u>					
Natural Resources, Wildlife Resources	38616	R657-3	AMD	08/11/2014	2014-13/100
<u>annuity disclosure</u>					
Insurance, Administration	38090	R590-229	AMD	03/11/2014	2013-22/139
	38090	R590-229	CPR	03/11/2014	2014-3/44
	38797	R590-229	5YR	08/20/2014	2014-18/96
	38342	R590-229-9	AMD	05/27/2014	2014-7/72
<u>annuity insurance filings</u>					
Insurance, Administration	38365	R590-227	5YR	03/18/2014	2014-8/45
	38291	R590-227-5	AMD	04/09/2014	2014-5/49
	38424	R590-227-5	NSC	05/01/2014	Not Printed
	38800	R590-227-10	NSC	09/15/2014	Not Printed
<u>annuity replacement</u>					
Insurance, Administration	38413	R590-93	5YR	04/07/2014	2014-9/56
<u>annuity suitability</u>					
Insurance, Administration	38559	R590-230	5YR	05/30/2014	2014-12/57
<u>APCD</u>					
Health, Center for Health Data, Health Care Statistics	38144	R428-15	AMD	01/07/2014	2013-23/43
	38568	R428-15	AMD	08/05/2014	2014-12/38
	38905	R428-15	5YR	10/10/2014	2014-21/91
<u>appeals</u>					
Administrative Services, Purchasing and General Services	38516	R33-18	NEW	07/08/2014	2014-11/89
	38518	R33-19	NEW	07/08/2014	2014-11/90
Education, Administration	38187	R277-481	AMD	02/07/2014	2014-1/15
<u>application requirements</u>					
Commerce, Consumer Protection	38869	R152-34a	NEW	11/24/2014	2014-20/12
<u>applications</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	38889	R414-308-6	AMD	12/01/2014	2014-20/57
Public Service Commission, Administration	38874	R746-700	5YR	09/22/2014	2014-20/77
<u>appraisals</u>					
Tax Commission, Property Tax	38822	R884-24P-33	AMD	10/23/2014	2014-18/69
	38598	R884-24P-73	AMD	08/28/2014	2014-13/126

<u>approval orders</u>						
Environmental Quality, Air Quality	38491	R307-401-12	AMD	08/07/2014	2014-11/127	
	37833	R307-401-19	AMD	01/06/2014	2013-15/29	
	37833	R307-401-19	CPR	01/06/2014	2013-23/55	
<u>ARC</u>						
Administrative Services, Fleet Operations	38073	R27-7-3	AMD	03/11/2014	2013-22/14	
<u>archaeological resources</u>						
Regents (Board Of), University of Utah, Museum of Natural History (Utah)	38354	R807-1	5YR	03/14/2014	2014-7/95	
<u>architects</u>						
Administrative Services, Facilities Construction and Management	38870	R23-2	5YR	09/16/2014	2014-20/73	
Administrative Services, Purchasing and General Services	38513	R33-15	NEW	07/08/2014	2014-11/84	
<u>armored car company</u>						
Commerce, Occupational and Professional Licensing	38474	R156-63b	AMD	06/23/2014	2014-10/48	
<u>armored car security officers</u>						
Commerce, Occupational and Professional Licensing	38474	R156-63b	AMD	06/23/2014	2014-10/48	
<u>assessments</u>						
Education, Administration	38863	R277-404	AMD	11/10/2014	2014-19/5	
<u>assistance</u>						
Human Services, Recovery Services	38550	R527-332	5YR	05/22/2014	2014-12/55	
<u>athletic trainer</u>						
Commerce, Occupational and Professional Licensing	38548	R156-40a-302a	AMD	07/22/2014	2014-12/13	
<u>attorney exemption application process</u>						
Insurance, Title and Escrow Commission	38607	R592-8	5YR	06/13/2014	2014-13/143	
	38246	R592-8-5	AMD	03/10/2014	2014-3/20	
<u>attorneys</u>						
Pardons (Board Of), Administration	38877	R671-103	5YR	09/22/2014	2014-20/76	
	38713	R671-103-1	AMD	09/29/2014	2014-16/26	
<u>audiology</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	38614	R414-59	AMD	08/26/2014	2014-13/95	
<u>audit committee</u>						
Education, Administration	38772	R277-113-4	AMD	10/09/2014	2014-17/39	
<u>autism spectrum</u>						
Health, Family Health and Preparedness, Children with Special Health Care Needs	38339	R398-10	5YR	03/12/2014	2014-7/92	
	38340	R398-10	NSC	04/01/2014	Not Printed	
<u>automotive refinishing</u>						
Environmental Quality, Air Quality	38686	R307-354	AMD	12/01/2014	2014-15/40	
	38686	R307-354	CPR	12/01/2014	2014-21/78	
<u>awards</u>						
Education, Administration	38242	R277-528	NEW	03/10/2014	2014-3/12	
Public Education Job Enhancement Program, Job Enhancement Committee	38243	R690-100	REP	03/10/2014	2014-3/37	
<u>background screening</u>						
Health, Family Health and Preparedness, Child Care Licensing	38544	R430-6	AMD	08/15/2014	2014-12/40	

RULES INDEX

<u>bail bond enforcement agents</u>						
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	38873	R722-310	AMD	11/21/2014	2014-20/64	
<u>bail bond recovery agents</u>						
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	38873	R722-310	AMD	11/21/2014	2014-20/64	
<u>bail bond recovery apprentices</u>						
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	38873	R722-310	AMD	11/21/2014	2014-20/64	
<u>bail bonds</u>						
Insurance, Administration	38966	R590-196	5YR	11/21/2014	Not Printed	
<u>ballots</u>						
Lieutenant Governor, Elections	38384	R623-2	5YR	03/26/2014	2014-8/47	
<u>banking</u>						
Commerce, Corporations and Commercial Code	38320	R154-2	R&R	04/21/2014	2014-6/9	
<u>bed allocations</u>						
Human Services, Substance Abuse and Mental Health	38297	R523-1	REP	04/07/2014	2014-5/27	
	38292	R523-4	NEW	04/07/2014	2014-5/36	
<u>behavior</u>						
Human Services, Services for People with Disabilities	38891	R539-4	5YR	09/30/2014	2014-20/75	
<u>benefits</u>						
Workforce Services, Administration	38717	R982-405	AMD	10/01/2014	2014-16/40	
	38718	R982-407	AMD	10/01/2014	2014-16/41	
<u>bicycle support</u>						
Transportation, Program Development	38919	R926-12	5YR	10/22/2014	2014-22/42	
<u>bid security</u>						
Administrative Services, Purchasing and General Services	38524	R33-11	R&R	07/08/2014	2014-11/64	
	38699	R33-11	5YR	07/08/2014	2014-15/66	
<u>big game seasons</u>						
Natural Resources, Wildlife Resources	38168	R657-5	AMD	02/10/2014	2014-1/44	
	38232	R657-43	AMD	03/11/2014	2014-3/30	
<u>birds</u>						
Natural Resources, Wildlife Resources	38600	R657-6	AMD	08/11/2014	2014-13/102	
	38605	R657-9	AMD	08/11/2014	2014-13/106	
	38558	R657-46	5YR	05/29/2014	2014-12/58	
	38603	R657-46	AMD	08/11/2014	2014-13/109	
<u>birth defect reporting</u>						
Health, Family Health and Preparedness, Children with Special Health Care Needs	38830	R398-5	5YR	09/02/2014	2014-18/91	
<u>birth defects</u>						
Health, Family Health and Preparedness, Children with Special Health Care Needs	38830	R398-5	5YR	09/02/2014	2014-18/91	
<u>bison</u>						
Agriculture and Food, Animal Industry	38294	R58-3	AMD	04/16/2014	2014-5/4	
<u>boating</u>						
Natural Resources, Parks and Recreation	38444	R651-205	AMD	06/09/2014	2014-9/36	
	38443	R651-213	AMD	06/09/2014	2014-9/37	
	38488	R651-213	NSC	06/24/2014	Not Printed	

<u>boilers</u>						
Labor Commission, Boiler and Elevator Safety	38226	R616-2-3	AMD	03/10/2014	2014-3/22	
<u>bonding requirements</u>						
Human Services, Recovery Services	38551	R527-394	5YR	05/22/2014	2014-12/56	
<u>boxing</u>						
Governor, Economic Development, Pete Suazo Utah Athletic Commission	38033	R359-1-604	AMD	01/24/2014	2013-20/25	
<u>breaks</u>						
Human Resource Management, Administration	38459	R477-8	AMD	07/01/2014	2014-10/80	
<u>breast cancer screening</u>						
Health, Disease Control and Prevention, Health Promotion	38178	R384-200	NEW	03/21/2014	2014-1/22	
<u>breath testing</u>						
Public Safety, Highway Patrol	38895	R714-500	5YR	10/02/2014	2014-21/93	
<u>broad scope</u>						
Environmental Quality, Radiation Control	38754	R313-22-33	AMD	10/21/2014	2014-17/97	
	38145	R313-22-34	AMD	02/14/2014	2013-23/19	
<u>brucellosis</u>						
Agriculture and Food, Animal Industry	38294	R58-3	AMD	04/16/2014	2014-5/4	
<u>budgeting</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	38724	R414-304	AMD	10/01/2014	2014-16/17	
	38317	R414-304-5	AMD	04/21/2014	2014-6/30	
<u>building board</u>						
Administrative Services, Facilities Construction and Management	38247	R23-33	NEW	03/10/2014	2014-3/2	
<u>building codes</u>						
Commerce, Occupational and Professional Licensing	38733	R156-15A	AMD	10/09/2014	2014-17/26	
	38549	R156-15A-231	AMD	07/22/2014	2014-12/10	
	38792	R156-15A-231	AMD	10/23/2014	2014-18/5	
<u>building inspection</u>						
Commerce, Occupational and Professional Licensing	38733	R156-15A	AMD	10/09/2014	2014-17/26	
	38549	R156-15A-231	AMD	07/22/2014	2014-12/10	
	38792	R156-15A-231	AMD	10/23/2014	2014-18/5	
<u>buildings</u>						
Administrative Services, Facilities Construction and Management	38404	R23-29	5YR	04/03/2014	2014-9/49	
	38425	R23-29	R&R	06/09/2014	2014-9/4	
<u>burglar alarms</u>						
Commerce, Occupational and Professional Licensing	38825	R156-55d	AMD	10/23/2014	2014-18/8	
<u>burns</u>						
Natural Resources, Forestry, Fire and State Lands	38948	R652-120	5YR	11/11/2014	2014-23/57	
<u>buses</u>						
Education, Administration	38410	R277-601	5YR	04/04/2014	2014-9/52	
<u>camp</u>						
Regents (Board Of), University of Utah, Administration	38355	R805-3	5YR	03/14/2014	2014-7/95	
<u>campfire</u>						
Regents (Board Of), University of Utah, Administration	38355	R805-3	5YR	03/14/2014	2014-7/95	

RULES INDEX

<u>camping</u> Regents (Board Of), University of Utah, Administration	38355	R805-3	5YR	03/14/2014	2014-7/95
<u>cancellations</u> Administrative Services, Purchasing and General Services	38508	R33-9	R&R	07/08/2014	2014-11/59
	38697	R33-9	5YR	07/08/2014	2014-15/65
<u>cancer</u> Health, Disease Control and Prevention, Health Promotion	38367	R384-100	5YR	03/18/2014	2014-8/38
<u>capital facilities</u> Heritage and Arts, History	38923	R455-13	5YR	10/28/2014	2014-22/41
<u>capital improvements</u> Administrative Services, Facilities Construction and Management	38247	R23-33	NEW	03/10/2014	2014-3/2
<u>capital investments</u> Governor, Economic Development	38154	R357-7	NEW	01/24/2014	2013-24/22
	38702	R357-7	R&R	09/11/2014	2014-15/48
<u>career and technical education</u> Education, Administration	38241	R277-518	AMD	03/10/2014	2014-3/8
<u>case managers</u> Human Services, Substance Abuse and Mental Health	38293	R523-5	NEW	04/07/2014	2014-5/42
<u>cattle</u> Agriculture and Food, Animal Industry	38294	R58-3	AMD	04/16/2014	2014-5/4
<u>certificate of registration</u> Natural Resources, Wildlife Resources	38482	R657-45	AMD	07/08/2014	2014-11/163
<u>certificate of state authorization</u> Commerce, Consumer Protection	38869	R152-34a	NEW	11/24/2014	2014-20/12
<u>certification</u> Education, Rehabilitation	38853	R280-203	5YR	09/09/2014	2014-19/80
Labor Commission, Boiler and Elevator Safety	38226	R616-2-3	AMD	03/10/2014	2014-3/22
	38378	R616-3-3	AMD	05/22/2014	2014-8/31
<u>certification of instructors</u> Human Services, Substance Abuse and Mental Health	38451	R523-22	AMD	06/26/2014	2014-10/96
<u>certifications</u> Agriculture and Food, Conservation Commission	38071	R64-3	NEW	05/08/2014	2013-22/15
	38071	R64-3	CPR	05/08/2014	2014-7/82
Transportation, Motor Carrier	38449	R909-19	AMD	07/08/2014	2014-10/102
<u>certified foster care</u> Human Services, Administration, Administrative Services, Licensing	38862	R501-12	R&R	11/17/2014	2014-19/49
<u>certified medical language interpreter</u> Commerce, Occupational and Professional Licensing	38388	R156-80a	5YR	03/31/2014	2014-8/37
<u>certified nurse midwife</u> Commerce, Occupational and Professional Licensing	38249	R156-44a	5YR	01/16/2014	2014-4/69

<u>cervical cancer screening</u>						
Health, Disease Control and Prevention, Health Promotion	38178	R384-200	NEW	03/21/2014	2014-1/22	
<u>change orders</u>						
Administrative Services, Purchasing and General Services	38510	R33-12	R&R	07/08/2014	2014-11/71	
	38700	R33-12	5YR	07/08/2014	2014-15/67	
<u>charities</u>						
Tax Commission, Auditing	38237	R865-19S-30	NSC	01/30/2014	Not Printed	
	38596	R865-19S-54	AMD	08/28/2014	2014-13/124	
	38597	R865-19S-83	AMD	08/28/2014	2014-13/125	
<u>charter schools</u>						
Education, Administration	38623	R277-470	AMD	08/07/2014	2014-13/25	
	38186	R277-470-6	AMD	02/07/2014	2014-1/14	
	38589	R277-472	5YR	06/10/2014	2014-13/138	
	38624	R277-472	AMD	08/07/2014	2014-13/28	
	38588	R277-480	5YR	06/10/2014	2014-13/139	
	38625	R277-480-4	AMD	08/07/2014	2014-13/30	
	38187	R277-481	AMD	02/07/2014	2014-1/15	
<u>chickens</u>						
Agriculture and Food, Regulatory Services	38315	R70-410	AMD	05/08/2014	2014-6/5	
<u>chief procurement officer</u>						
Administrative Services, Purchasing and General Services	38502	R33-3	R&R	07/08/2014	2014-11/9	
	38691	R33-3	5YR	07/08/2014	2014-15/62	
<u>child care</u>						
Health, Family Health and Preparedness, Child Care Licensing	38543	R430-70	5YR	05/19/2014	2014-12/55	
Workforce Services, Employment Development	38159	R986-700	AMD	03/01/2014	2013-24/38	
	38269	R986-700	AMD	04/15/2014	2014-4/46	
	38664	R986-700	AMD	10/01/2014	2014-14/70	
<u>child care centers</u>						
Health, Family Health and Preparedness, Child Care Licensing	38543	R430-70	5YR	05/19/2014	2014-12/55	
<u>child care facilities</u>						
Health, Family Health and Preparedness, Child Care Licensing	38544	R430-6	AMD	08/15/2014	2014-12/40	
	38453	R430-8	5YR	04/25/2014	2014-10/113	
	38543	R430-70	5YR	05/19/2014	2014-12/55	
<u>child support</u>						
Human Services, Recovery Services	38728	R527-10	5YR	08/04/2014	2014-17/138	
	38277	R527-38	5YR	02/05/2014	2014-5/61	
	38836	R527-40	5YR	09/03/2014	2014-19/81	
	38336	R527-275	5YR	03/06/2014	2014-7/93	
	38550	R527-332	5YR	05/22/2014	2014-12/55	
	38551	R527-394	5YR	05/22/2014	2014-12/56	
	38729	R527-450	5YR	08/04/2014	2014-17/138	
	38924	R527-450	NSC	11/07/2014	Not Printed	
<u>child welfare</u>						
Administrative Services, Child Welfare Parental Defense (Office of)	38547	R19-1	5YR	05/21/2014	2014-12/53	
Human Services, Child and Family Services	38263	R512-41	5YR	01/28/2014	2014-4/72	
	38217	R512-43	AMD	03/10/2014	2014-3/15	
	38743	R512-310	NEW	10/08/2014	2014-17/112	
<u>children's health benefits</u>						
Health, Children's Health Insurance Program	38102	R382-3	NEW	01/13/2014	2013-23/23	

RULES INDEX

	38400	R382-10	AMD	06/01/2014	2014-8/18
	38817	R382-10	AMD	11/01/2014	2014-18/13
<u>CHIP</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	38322	R414-320	AMD	04/21/2014	2014-6/42
	38816	R414-320	EMR	09/01/2014	2014-18/85
	38819	R414-320	AMD	11/01/2014	2014-18/18
<u>chiropractic services</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	38529	R414-99	AMD	07/11/2014	2014-11/151
<u>claims</u>					
Health, Center for Health Data, Health Care Statistics	38144	R428-15	AMD	01/07/2014	2013-23/43
	38568	R428-15	AMD	08/05/2014	2014-12/38
	38905	R428-15	5YR	10/10/2014	2014-21/91
<u>Class I area</u>					
Environmental Quality, Air Quality	38260	R307-405	5YR	01/28/2014	2014-4/70
<u>class size average reporting</u>					
Education, Administration	38590	R277-463	5YR	06/10/2014	2014-13/138
	38622	R277-463	AMD	08/07/2014	2014-13/24
<u>client rights</u>					
Workforce Services, Administration	38714	R982-401	AMD	10/01/2014	2014-16/32
<u>clinical health information exchanges</u>					
Health, Administration	38256	R380-70	5YR	01/24/2014	2014-4/71
<u>CMV</u>					
Health, Family Health and Preparedness, Children with Special Health Care Needs	38139	R398-4	NEW	01/17/2014	2013-23/25
<u>coal mines</u>					
Natural Resources, Oil, Gas and Mining; Coal	38738	R645-105	5YR	08/05/2014	2014-17/140
	38739	R645-400	5YR	08/05/2014	2014-17/141
<u>coal mining</u>					
Natural Resources, Oil, Gas and Mining; Coal	38740	R645-106	5YR	08/05/2014	2014-17/141
<u>coating</u>					
Environmental Quality, Air Quality	38687	R307-355	CPR	12/01/2014	2014-21/81
<u>coatings</u>					
Environmental Quality, Air Quality	38676	R307-343	AMD	12/01/2014	2014-15/16
	38676	R307-343	CPR	12/01/2014	2014-21/56
	38682	R307-349	AMD	12/01/2014	2014-15/30
	38682	R307-349	CPR	12/01/2014	2014-21/67
	38683	R307-350	AMD	12/01/2014	2014-15/32
	38683	R307-350	CPR	12/01/2014	2014-21/69
	38685	R307-353	AMD	12/01/2014	2014-15/39
	38685	R307-353	CPR	12/01/2014	2014-21/75
	38686	R307-354	AMD	12/01/2014	2014-15/40
	38686	R307-354	CPR	12/01/2014	2014-21/78
	38687	R307-355	AMD	12/01/2014	2014-15/45
<u>coil coatings</u>					
Environmental Quality, Air Quality	38684	R307-352	AMD	12/01/2014	2014-15/34
	38684	R307-352	CPR	12/01/2014	2014-21/73
<u>colleges</u>					
Public Safety, Administration	38310	R698-4	5YR	02/21/2014	2014-6/78

<u>colorectal cancer screening</u> Health, Disease Control and Prevention, Health Promotion	38178	R384-200	NEW	03/21/2014	2014-1/22
<u>compulsory education</u> Education, Administration	38831 38778	R277-607 R277-607	5YR AMD	09/02/2014 10/09/2014	2014-18/90 2014-17/50
<u>conduct</u> Administrative Services, Purchasing and General Services	38514	R33-16	NEW	07/08/2014	2014-11/86
<u>conduct committee</u> Human Resource Management, Administration	38091 38464	R477-101 R477-101	NEW AMD	01/14/2014 07/01/2014	2013-22/129 2014-10/92
<u>confidentiality</u> Education, Administration	38295 38299 38955	R277-117 R277-117 R277-487	5YR AMD 5YR	02/13/2014 04/07/2014 11/14/2014	2014-5/59 2014-5/16 2014-23/55
<u>confidentiality of information</u> Human Resource Management, Administration Workforce Services, Administration Workforce Services, Unemployment Insurance	38457 38714 38668 38248	R477-2-3 R982-401 R994-312 R994-312-102	AMD AMD 5YR AMD	07/01/2014 10/01/2014 07/01/2014 04/15/2014	2014-10/62 2014-16/32 2014-14/86 2014-3/41
<u>conflict of interest</u> Human Resource Management, Administration	38460	R477-9	AMD	07/01/2014	2014-10/84
<u>congregate meals</u> Human Services, Aging and Adult Services	38670	R510-104	5YR	07/02/2014	2014-15/67
<u>connections</u> Environmental Quality, Drinking Water	38536 38536	R309-550 R309-550	AMD CPR	11/10/2014 11/10/2014	2014-11/135 2014-16/52
<u>conservation permits</u> Natural Resources, Wildlife Resources	38171	R657-41	AMD	02/10/2014	2014-1/68
<u>construction management</u> Administrative Services, Purchasing and General Services	38511	R33-13	NEW	07/08/2014	2014-11/79
<u>consumer hearing panel</u> Human Services, Child and Family Services	38264	R512-75	5YR	01/28/2014	2014-4/72
<u>consumer products</u> Environmental Quality, Air Quality	38332 38495	R307-357-4 R307-357-4	AMD NSC	05/08/2014 05/29/2014	2014-7/16 Not Printed
<u>consumer protection</u> Commerce, Consumer Protection	38748 38763 38880 38869	R152-23 R152-32a-2 R152-34 R152-34a	AMD AMD AMD NEW	10/16/2014 10/16/2014 11/24/2014 11/24/2014	2014-17/22 2014-17/23 2014-20/10 2014-20/12
<u>consumer rights</u> Human Services, Substance Abuse and Mental Health	38298	R523-6	NEW	04/07/2014	2014-5/45
<u>consumers</u> Commerce, Consumer Protection	38266 38125	R152-21 R152-26	5YR AMD	01/29/2014 01/07/2014	2014-4/67 2013-23/4

RULES INDEX

contract requirements

Administrative Services, Facilities Construction and Management 38587 R23-23 5YR 06/10/2014 2014-13/133

contractors

Administrative Services, Facilities Construction and Management 38587 R23-23 5YR 06/10/2014 2014-13/133
 Capitol Preservation Board (State), Administration 38476 R131-13 5YR 05/01/2014 2014-10/113
 38479 R131-13 AMD 07/08/2014 2014-11/103
 Commerce, Occupational and Professional Licensing 38733 R156-15A AMD 10/09/2014 2014-17/26
 38549 R156-15A-231 AMD 07/22/2014 2014-12/10
 38792 R156-15A-231 AMD 10/23/2014 2014-18/5
 38885 R156-38a NSC 11/03/2014 Not Printed
 38732 R156-38a-301a NSC 08/28/2014 Not Printed
 38533 R156-38a-401 NSC 05/29/2014 Not Printed
 38151 R156-55a AMD 01/21/2014 2013-24/10
 38736 R156-55a AMD 10/09/2014 2014-17/28
 38902 R156-55a-102 NSC 10/31/2014 Not Printed
 38380 R156-55a-301 NSC 04/14/2014 Not Printed
 38760 R156-55a-302f AMD 10/09/2014 2014-17/31
 38648 R156-55b AMD 08/21/2014 2014-14/44

contracts

Administrative Services, Facilities Construction and Management 38587 R23-23 5YR 06/10/2014 2014-13/133
 Administrative Services, Purchasing and General Services 38510 R33-12 R&R 07/08/2014 2014-11/71
 38700 R33-12 5YR 07/08/2014 2014-15/67
 38512 R33-14 NEW 07/08/2014 2014-11/83
 Capitol Preservation Board (State), Administration 38546 R131-4 EMR 05/21/2014 2014-12/49
 38557 R131-4 AMD 07/22/2014 2014-12/8
 38476 R131-13 5YR 05/01/2014 2014-10/113
 38479 R131-13 AMD 07/08/2014 2014-11/103
 Transportation, Operations, Construction 38861 R916-5 5YR 09/12/2014 2014-19/81

controlled substances

Health, Disease Control and Prevention, Health Promotion 38081 R384-203 NEW 03/01/2014 2013-22/68

controversies

Administrative Services, Purchasing and General Services 38514 R33-16 NEW 07/08/2014 2014-11/86

conveyance

Natural Resources, Water Rights 38723 R655-3 5YR 08/01/2014 2014-16/59

cooperative purchasing

Administrative Services, Purchasing and General Services 38520 R33-21 NEW 07/08/2014 2014-11/92

corrections

Corrections, Administration 38255 R251-111 NEW 03/26/2014 2014-4/25

costs

Administrative Services, Purchasing and General Services 38510 R33-12 R&R 07/08/2014 2014-11/71
 38700 R33-12 5YR 07/08/2014 2014-15/67

cougar

Natural Resources, Wildlife Resources 38231 R657-10 AMD 03/11/2014 2014-3/23
 38849 R657-10 AMD 11/07/2014 2014-19/69

counselors

Education, Administration 38591 R277-462 5YR 06/10/2014 2014-13/137
 38621 R277-462 AMD 08/07/2014 2014-13/20

<u>counties</u>						
Auditor, Administration	38721	R123-6	NEW	11/28/2014	2014-16/4	
<u>coverage</u>						
Workforce Services, Unemployment Insurance	38666	R994-310	5YR	07/01/2014	2014-14/85	
<u>coverage groups</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	38401	R414-303	AMD	06/01/2014	2014-8/27	
	38465	R414-303	AMD	07/01/2014	2014-10/51	
	38888	R414-303-9	AMD	12/01/2014	2014-20/56	
	38818	R414-303-11	AMD	11/01/2014	2014-18/16	
<u>credit insurance filings</u>						
Insurance, Administration	38366	R590-228	5YR	03/18/2014	2014-8/46	
<u>credit services</u>						
Commerce, Consumer Protection	38266	R152-21	5YR	01/29/2014	2014-4/67	
<u>criminal records</u>						
Corrections, Administration	38255	R251-111	NEW	03/26/2014	2014-4/25	
<u>curation</u>						
Regents (Board Of), University of Utah, Museum of Natural History (Utah)	38354	R807-1	5YR	03/14/2014	2014-7/95	
<u>curricula</u>						
Education, Administration	38852	R277-713	NSC	09/30/2014	Not Printed	
<u>curriculum materials</u>						
Education, Administration	38962	R277-111	EXT	11/19/2014	Not Printed	
<u>custody</u>						
Education, Administration	38352	R277-735	5YR	03/14/2014	2014-7/91	
	38360	R277-735	AMD	05/08/2014	2014-7/11	
<u>Cytomegalovirus</u>						
Health, Family Health and Preparedness, Children with Special Health Care Needs	38139	R398-4	NEW	01/17/2014	2013-23/25	
<u>dairy inspections</u>						
Agriculture and Food, Regulatory Services	38467	R70-310	NSC	05/16/2014	Not Printed	
	38636	R70-310	EXT	06/18/2014	2014-14/87	
	38651	R70-310	5YR	06/24/2014	2014-14/79	
	38652	R70-310	NSC	07/11/2014	Not Printed	
<u>debarment</u>						
Administrative Services, Purchasing and General Services	38508	R33-9	R&R	07/08/2014	2014-11/59	
	38697	R33-9	5YR	07/08/2014	2014-15/65	
<u>deception detection examiner</u>						
Commerce, Occupational and Professional Licensing	38814	R156-64	AMD	10/23/2014	2014-18/10	
<u>deception detection intern</u>						
Commerce, Occupational and Professional Licensing	38814	R156-64	AMD	10/23/2014	2014-18/10	
<u>decommissioning</u>						
Environmental Quality, Radiation Control	38754	R313-22-33	AMD	10/21/2014	2014-17/97	
	38145	R313-22-34	AMD	02/14/2014	2013-23/19	
<u>definitions</u>						
Administrative Services, Purchasing and General Services	38500	R33-1	R&R	07/08/2014	2014-11/4	
	38689	R33-1	5YR	07/08/2014	2014-15/61	
Environmental Quality, Air Quality	38494	R307-101	5YR	05/08/2014	2014-11/172	
	38493	R307-101-3	AMD	08/07/2014	2014-11/122	

RULES INDEX

	38330	R307-840	5YR	03/06/2014	2014-7/92
Environmental Quality, Radiation Control	38752	R313-12-3	AMD	10/21/2014	2014-17/88
Human Resource Management, Administration	38456	R477-1	AMD	07/01/2014	2014-10/57
<u>degreasing</u>					
Environmental Quality, Air Quality	37829	R307-335	AMD	06/02/2014	2013-15/23
	37829	R307-335	CPR	06/02/2014	2013-23/54
	37829	R307-335	CPR	06/02/2014	2014-7/85
	37829	R307-335	CPR	06/02/2014	2014-9/46
	38674	R307-335	AMD	12/01/2014	2014-15/8
	38674	R307-335	CPR	12/01/2014	2014-21/48
<u>delegation of authority</u>					
Administrative Services, Purchasing and General Services	38502	R33-3	R&R	07/08/2014	2014-11/9
	38691	R33-3	5YR	07/08/2014	2014-15/62
<u>delegations</u>					
Administrative Services, Facilities Construction and Management	38404	R23-29	5YR	04/03/2014	2014-9/49
	38425	R23-29	R&R	06/09/2014	2014-9/4
<u>demonstration</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	38321	R414-310	AMD	04/21/2014	2014-6/32
	38815	R414-310	EMR	09/01/2014	2014-18/83
<u>dental</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	38135	R414-51	REP	01/10/2014	2013-23/33
<u>dental hygienists</u>					
Commerce, Occupational and Professional Licensing	38149	R156-69	AMD	01/21/2014	2013-24/20
<u>dentists</u>					
Commerce, Occupational and Professional Licensing	38149	R156-69	AMD	01/21/2014	2013-24/20
<u>depleted uranium</u>					
Environmental Quality, Radiation Control	38082	R313-25	AMD	04/03/2014	2013-22/49
	38082	R313-25	CPR	04/03/2014	2014-4/53
	38755	R313-25-2	AMD	10/21/2014	2014-17/99
<u>depredation</u>					
Natural Resources, Wildlife Resources	38847	R657-69	NEW	11/07/2014	2014-19/73
<u>design</u>					
Administrative Services, Facilities Construction and Management	38405	R23-3	5YR	04/03/2014	2014-9/49
<u>design-build transportation projects</u>					
Administrative Services, Purchasing and General Services	38512	R33-14	NEW	07/08/2014	2014-11/83
<u>designated examiners</u>					
Human Services, Substance Abuse and Mental Health	38293	R523-5	NEW	04/07/2014	2014-5/42
<u>direct-entry midwife</u>					
Commerce, Occupational and Professional Licensing	38375	R156-77	AMD	05/22/2014	2014-8/7
<u>disabilities</u>					
Health, Family Health and Preparedness, Children with Special Health Care Needs	37984	R398-20	AMD	01/28/2014	2013-19/61
Human Services, Services for People with Disabilities	38892	R539-5	5YR	09/30/2014	2014-20/75
Pardons (Board Of), Administration	38324	R671-102	AMD	05/08/2014	2014-7/76
	38879	R671-102	5YR	09/22/2014	2014-20/76

<u>disabled persons</u>					
Education, Rehabilitation	38353	R280-202	5YR	03/14/2014	2014-7/91
	38361	R280-202	AMD	05/08/2014	2014-7/14
	38540	R280-202-3	NSC	05/29/2014	Not Printed
Natural Resources, Wildlife Resources	38169	R657-12	AMD	02/10/2014	2014-1/52
<u>disasters</u>					
Education, Administration	38296	R277-400	5YR	02/13/2014	2014-5/59
	38300	R277-400	AMD	04/07/2014	2014-5/17
	38773	R277-400	AMD	10/09/2014	2014-17/41
	38426	R277-400-5	NSC	04/29/2014	Not Printed
<u>discipline of employees</u>					
Human Resource Management, Administration	38462	R477-14	AMD	07/01/2014	2014-10/88
<u>discretionary funds</u>					
Education, Administration	38357	R277-119	NEW	05/08/2014	2014-7/7
<u>discrimination</u>					
Labor Commission, Adjudication	38327	R602-7	5YR	03/05/2014	2014-7/94
<u>disruptive behavior</u>					
Regents (Board Of), University of Utah, Administration	38918	R805-4	5YR	10/16/2014	2014-22/42
<u>dissemination of information</u>					
Education, Administration	38593	R277-714	5YR	06/10/2014	2014-13/140
<u>diversion programs</u>					
Commerce, Occupational and Professional Licensing	38659	R156-1	AMD	08/21/2014	2014-14/14
	38157	R156-1-501	AMD	01/21/2014	2013-24/6
	38253	R156-1-501	NSC	01/31/2014	Not Printed
<u>dogs</u>					
Natural Resources, Wildlife Resources	38558	R657-46	5YR	05/29/2014	2014-12/58
	38603	R657-46	AMD	08/11/2014	2014-13/109
<u>drinking water</u>					
Environmental Quality, Drinking Water	38727	R309-400	AMD	11/17/2014	2014-17/60
	38013	R309-511	AMD	01/21/2014	2013-19/48
	38012	R309-515	AMD	01/21/2014	2013-19/51
	38535	R309-545	AMD	11/10/2014	2014-11/130
	38535	R309-545	CPR	11/10/2014	2014-16/48
	38536	R309-550	AMD	11/10/2014	2014-11/135
	38536	R309-550	CPR	11/10/2014	2014-16/52
<u>drip irrigation</u>					
Environmental Quality, Water Quality	38481	R317-401	5YR	05/06/2014	2014-11/173
<u>driver license restrictions</u>					
Public Safety, Driver License	38370	R708-10	5YR	03/18/2014	2014-8/48
<u>drug abuse</u>					
Human Resource Management, Administration	38462	R477-14	AMD	07/01/2014	2014-10/88
<u>drug and alcohol testing</u>					
Administrative Services, Purchasing and General Services	38511	R33-13	NEW	07/08/2014	2014-11/79
<u>drug/alcohol education</u>					
Human Resource Management, Administration	38462	R477-14	AMD	07/01/2014	2014-10/88
<u>dual employment</u>					
Human Resource Management, Administration	38459	R477-8	AMD	07/01/2014	2014-10/80
<u>dual enrollment</u>					
Education, Administration	38347	R277-438	5YR	03/14/2014	2014-7/89

RULES INDEX

<u>due process</u>						
Human Services, Substance Abuse and Mental Health	38297	R523-1	REP	04/07/2014	2014-5/27	
	38298	R523-6	NEW	04/07/2014	2014-5/45	
<u>DUI programs</u>						
Human Services, Substance Abuse and Mental Health	38451	R523-22	AMD	06/26/2014	2014-10/96	
<u>dumping of wastes</u>						
Environmental Quality, Water Quality	38387	R317-550	AMD	07/30/2014	2014-8/14	
<u>duplicate license</u>						
Public Safety, Driver License	38941	R708-45	5YR	11/07/2014	2014-23/57	
<u>early intervention</u>						
Health, Family Health and Preparedness, Children with Special Health Care Needs	37984	R398-20	AMD	01/28/2014	2013-19/61	
<u>economic development</u>						
Governor, Economic Development	38154	R357-7	NEW	01/24/2014	2013-24/22	
	38702	R357-7	R&R	09/11/2014	2014-15/48	
<u>economics</u>						
Education, Administration	38113	R277-704	AMD	01/08/2014	2013-23/11	
	38781	R277-704	AMD	10/09/2014	2014-17/55	
<u>education</u>						
Commerce, Consumer Protection	38880	R152-34	AMD	11/24/2014	2014-20/10	
Education, Administration	38864	R277-422-4	AMD	11/10/2014	2014-19/10	
	38623	R277-470	AMD	08/07/2014	2014-13/25	
	38186	R277-470-6	AMD	02/07/2014	2014-1/14	
	38116	R277-709	AMD	01/14/2014	2013-23/13	
	38834	R277-709-1	NSC	09/19/2014	Not Printed	
	38359	R277-709-11	AMD	05/08/2014	2014-7/10	
Health, Family Health and Preparedness, Children with Special Health Care Needs	37984	R398-20	AMD	01/28/2014	2013-19/61	
<u>education finance</u>						
Education, Administration	38585	R277-419-9	EMR	06/09/2014	2014-13/129	
<u>educational administration</u>						
Education, Administration	38183	R277-116	AMD	02/07/2014	2014-1/10	
	38592	R277-800	5YR	06/10/2014	2014-13/140	
	38868	R277-800	AMD	11/10/2014	2014-19/29	
<u>educational facilities</u>						
Education, Administration	38854	R277-471	5YR	09/09/2014	2014-19/79	
	38865	R277-471	AMD	11/10/2014	2014-19/11	
<u>educational program evaluations</u>						
Education, Administration	38867	R277-506	AMD	11/10/2014	2014-19/26	
	38951	R277-506	5YR	11/13/2014	2014-23/56	
<u>educational tuition</u>						
Human Resource Management, Administration	38461	R477-10-1	AMD	07/01/2014	2014-10/87	
<u>educator licensing</u>						
Education, Administration	38833	R277-502-3	NSC	09/19/2014	Not Printed	
	38775	R277-502-5	AMD	10/09/2014	2014-17/45	
	38867	R277-506	AMD	11/10/2014	2014-19/26	
	38951	R277-506	5YR	11/13/2014	2014-23/56	
	38241	R277-518	AMD	03/10/2014	2014-3/8	
<u>educators</u>						
Education, Administration	38289	R277-510-4	NSC	02/27/2014	Not Printed	

	38242	R277-528	NEW	03/10/2014	2014-3/12
	38776	R277-531	AMD	10/09/2014	2014-17/46
Public Education Job Enhancement Program, Job Enhancement Committee	38243	R690-100	REP	03/10/2014	2014-3/37
<u>effective date</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	38466	R414-306	AMD	07/01/2014	2014-10/53
	38129	R414-306-5	AMD	01/10/2014	2013-23/35
<u>effluent standards</u>					
Environmental Quality, Water Quality	38235	R317-1-7	AMD	03/27/2014	2014-3/13
	38402	R317-1-7	AMD	08/01/2014	2014-8/13
<u>eggs</u>					
Agriculture and Food, Regulatory Services	38315	R70-410	AMD	05/08/2014	2014-6/5
<u>elderly</u>					
Human Services, Aging and Adult Services	38670	R510-104	5YR	07/02/2014	2014-15/67
	38671	R510-400-16	AMD	10/08/2014	2014-15/53
<u>elections</u>					
Lieutenant Governor, Elections	38384	R623-2	5YR	03/26/2014	2014-8/47
	38385	R623-3	5YR	03/26/2014	2014-8/48
<u>electricians</u>					
Commerce, Occupational and Professional Licensing	38648	R156-55b	AMD	08/21/2014	2014-14/44
<u>electronic data interchanges</u>					
Health, Administration	38586	R380-25	5YR	06/09/2014	2014-13/140
<u>electronic devices</u>					
Education, Administration	38301	R277-495	AMD	04/07/2014	2014-5/20
<u>electronic high school</u>					
Education, Administration	38411	R277-725	5YR	04/04/2014	2014-9/52
	38437	R277-725	AMD	06/09/2014	2014-9/18
<u>electronic meetings</u>					
Administrative Services, Child Welfare Parental Defense (Office of)	38547	R19-1	5YR	05/21/2014	2014-12/53
Administrative Services, Finance	38634	R25-11	NEW	08/21/2014	2014-14/4
Capitol Preservation Board (State), Administration	38887	R131-16	NEW	11/21/2014	2014-20/9
<u>elevators</u>					
Labor Commission, Boiler and Elevator Safety	38378	R616-3-3	AMD	05/22/2014	2014-8/31
<u>eligibility</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	38889	R414-308-6	AMD	12/01/2014	2014-20/57
<u>eligible regional service centers</u>					
Education, Administration	38832	R277-706	5YR	09/02/2014	2014-18/90
	38782	R277-706	AMD	10/09/2014	2014-17/57
<u>emergency medical services</u>					
Health, Family Health and Preparedness, Emergency Medical Services	38672	R426-5-2600	NSC	07/31/2014	Not Printed
	38272	R426-8	AMD	03/24/2014	2014-4/42
	38079	R426-100	REP	01/06/2014	2013-22/119
<u>emergency preparedness</u>					
Education, Administration	38296	R277-400	5YR	02/13/2014	2014-5/59
	38300	R277-400	AMD	04/07/2014	2014-5/17
	38773	R277-400	AMD	10/09/2014	2014-17/41
	38426	R277-400-5	NSC	04/29/2014	Not Printed

RULES INDEX

emergency procurement

Administrative Services, Purchasing and General Services	38507	R33-8	R&R	07/08/2014	2014-11/56
	38696	R33-8	5YR	07/08/2014	2014-15/65

emission controls

Environmental Quality, Air Quality	38678	R307-345	AMD	12/01/2014	2014-15/21
	38678	R307-345	CPR	12/01/2014	2014-21/61
	38679	R307-346	AMD	12/01/2014	2014-15/23
	38679	R307-346	CPR	12/01/2014	2014-21/63
	38680	R307-347	AMD	12/01/2014	2014-15/26
	38680	R307-347	CPR	12/01/2014	2014-21/65
	38681	R307-348	AMD	10/07/2014	2014-15/28
	38682	R307-349	AMD	12/01/2014	2014-15/30
	38682	R307-349	CPR	12/01/2014	2014-21/67
	38683	R307-350	AMD	12/01/2014	2014-15/32
	38683	R307-350	CPR	12/01/2014	2014-21/69
	38684	R307-352	AMD	12/01/2014	2014-15/34
	38684	R307-352	CPR	12/01/2014	2014-21/73
	38685	R307-353	AMD	12/01/2014	2014-15/39
	38685	R307-353	CPR	12/01/2014	2014-21/75

employee benefit plans

Human Resource Management, Administration	38469	R477-6	AMD	07/01/2014	2014-10/67
	38092	R477-6-9	AMD	01/14/2014	2013-22/125

employee performance evaluations

Human Resource Management, Administration	38461	R477-10-1	AMD	07/01/2014	2014-10/87
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employee productivity

Human Resource Management, Administration	38461	R477-10-1	AMD	07/01/2014	2014-10/87
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employment

Human Resource Management, Administration	38458	R477-4	AMD	07/01/2014	2014-10/63
	38077	R477-4-4	AMD	01/14/2014	2013-22/124

employment support procedures

Workforce Services, Employment Development	38158	R986-100-117	AMD	03/01/2014	2013-24/36
	38268	R986-100-117	AMD	04/15/2014	2014-4/45

endangered species

Natural Resources, Forestry, Fire and State Lands	38948	R652-120	5YR	11/11/2014	2014-23/57
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energy

Governor, Energy Development (Office of)	38163	R362-2	AMD	01/22/2014	2013-24/23
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energy assistance

Workforce Services, Administration	38715	R982-402	AMD	10/01/2014	2014-16/34
	38716	R982-403	AMD	10/01/2014	2014-16/37
	38717	R982-405	AMD	10/01/2014	2014-16/40
	38718	R982-407	AMD	10/01/2014	2014-16/41
	38719	R982-408	AMD	10/01/2014	2014-16/42

energy industries

Workforce Services, Administration	38719	R982-408	AMD	10/01/2014	2014-16/42
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enforcement

Environmental Quality, Radiation Control	38076	R313-14	AMD	04/03/2014	2013-22/45
	38076	R313-14	CPR	04/03/2014	2014-4/50

engineering

Environmental Quality, Water Quality	38271	R317-5	R&R	03/26/2014	2014-4/26
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engineers

Administrative Services, Facilities Construction and Management	38870	R23-2	5YR	09/16/2014	2014-20/73
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Administrative Services, Purchasing and General Services	38513	R33-15	NEW	07/08/2014	2014-11/84
<u>enrollment options</u> Education, Administration	38185	R277-437	AMD	02/07/2014	2014-1/12
<u>enrollment reporting</u> Education, Administration	38590 38622	R277-463 R277-463	5YR AMD	06/10/2014 08/07/2014	2014-13/138 2014-13/24
<u>environment</u> Agriculture and Food, Conservation Commission	38071 38071	R64-3 R64-3	NEW CPR	05/08/2014 05/08/2014	2013-22/15 2014-7/82
Tax Commission, Auditing	38223	R865-7H	5YR	01/06/2014	2014-3/53
<u>environmental protection</u> Environmental Quality, Drinking Water	38727	R309-400	AMD	11/17/2014	2014-17/60
<u>equipment</u> Environmental Quality, Water Quality	38661	R317-12	R&R	08/27/2014	2014-14/48
<u>equipment leasing</u> Commerce, Corporations and Commercial Code	38320	R154-2	R&R	04/21/2014	2014-6/9
<u>evaluation cycles</u> Judicial Performance Evaluation Commission, Administration	38304 38438 38595	R597-3 R597-3 R597-3	5YR AMD AMD	02/17/2014 06/12/2014 08/08/2014	2014-6/77 2014-9/30 2014-13/97
<u>evaluations</u> Education, Administration	38776 38777	R277-531 R277-532-3	AMD AMD	10/09/2014 10/09/2014	2014-17/46 2014-17/49
<u>evidentiary restrictions</u> Commerce, Occupational and Professional Licensing	38659 38157 38253	R156-1 R156-1-501 R156-1-501	AMD AMD NSC	08/21/2014 01/21/2014 01/31/2014	2014-14/14 2013-24/6 Not Printed
<u>exceptions to procurement requirements</u> Administrative Services, Purchasing and General Services	38507 38696	R33-8 R33-8	R&R 5YR	07/08/2014 07/08/2014	2014-11/56 2014-15/65
<u>exclusions</u> Insurance, Administration	38786	R590-249	AMD	10/10/2014	2014-17/119
<u>executive branch employees</u> Administrative Services, Purchasing and General Services	38521 38758	R33-24 R33-24	NEW AMD	07/08/2014 10/08/2014	2014-11/95 2014-17/18
<u>executive branch insurance procurement</u> Administrative Services, Purchasing and General Services	38522	R33-25	NEW	07/08/2014	2014-11/97
<u>exemptions</u> Environmental Quality, Radiation Control	38752	R313-12-3	AMD	10/21/2014	2014-17/88
<u>exiting provider</u> Public Service Commission, Administration	38234	R746-350	5YR	01/13/2014	2014-3/52
<u>expenses</u> Public Safety, Emergency Management	38688 38704	R704-1 R704-1	5YR R&R	07/07/2014 09/29/2014	2014-15/68 2014-16/27

RULES INDEX

<u>fabric coating</u>						
Environmental Quality, Air Quality	38678	R307-345	AMD	12/01/2014	2014-15/21	
	38678	R307-345	CPR	12/01/2014	2014-21/61	
<u>facilities</u>						
Education, Administration	38351	R277-724	5YR	03/14/2014	2014-7/90	
<u>facilities use</u>						
Administrative Services, Facilities Construction and Management	38617	R23-19	AMD	08/07/2014	2014-13/8	
<u>facility</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	38528	R414-9	AMD	07/11/2014	2014-11/150	
<u>fair employment practices</u>						
Human Resource Management, Administration	38457	R477-2-3	AMD	07/01/2014	2014-10/62	
	38458	R477-4	AMD	07/01/2014	2014-10/63	
	38077	R477-4-4	AMD	01/14/2014	2013-22/124	
<u>family employment program</u>						
Workforce Services, Employment Development	38140	R986-200-204	AMD	01/14/2014	2013-23/50	
	38472	R986-200-207	AMD	07/01/2014	2014-10/108	
	38720	R986-200-218	AMD	10/01/2014	2014-16/43	
<u>family involvement</u>						
Human Services, Substance Abuse and Mental Health	38298	R523-6	NEW	04/07/2014	2014-5/45	
<u>federal election reform</u>						
Lieutenant Governor, Elections	38385	R623-3	5YR	03/26/2014	2014-8/48	
<u>federal surplus property</u>						
Administrative Services, Purchasing and General Services	38523	R33-26	NEW	07/08/2014	2014-11/98	
<u>fees</u>						
Environmental Quality, Radiation Control	38751	R313-70	AMD	10/21/2014	2014-17/104	
	38146	R313-70-5	AMD	02/18/2014	2013-23/22	
Human Services, Substance Abuse and Mental Health	38297	R523-1	REP	04/07/2014	2014-5/27	
Labor Commission, Industrial Accidents	38810	R612-300	AMD	10/22/2014	2014-18/46	
	38881	R612-300-4	AMD	11/24/2014	2014-20/59	
<u>fertilizers</u>						
Agriculture and Food, Plant Industry	38937	R68-3	5YR	11/06/2014	2014-23/55	
<u>filing deadlines</u>						
Labor Commission, Industrial Accidents	38806	R612-200	AMD	10/22/2014	2014-18/38	
	38553	R612-200-8	AMD	07/22/2014	2014-12/43	
<u>filing documents</u>						
Commerce, Corporations and Commercial Code	38320	R154-2	R&R	04/21/2014	2014-6/9	
<u>filings</u>						
Public Service Commission, Administration	38874	R746-700	5YR	09/22/2014	2014-20/77	
<u>film coating</u>						
Environmental Quality, Air Quality	38677	R307-344	AMD	12/01/2014	2014-15/19	
	38677	R307-344	CPR	12/01/2014	2014-21/59	
<u>finance</u>						
Administrative Services, Finance	38653	R25-10	5YR	06/25/2014	2014-14/79	
<u>finances</u>						
Education, Administration	38864	R277-422-4	AMD	11/10/2014	2014-19/10	

<u>financial</u>						
Education, Administration	38113	R277-704	AMD	01/08/2014	2013-23/11	
	38781	R277-704	AMD	10/09/2014	2014-17/55	
<u>financial disclosures</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	38724	R414-304	AMD	10/01/2014	2014-16/17	
	38317	R414-304-5	AMD	04/21/2014	2014-6/30	
<u>financial information</u>						
Human Services, Recovery Services	38728	R527-10	5YR	08/04/2014	2014-17/138	
<u>financial reimbursement</u>						
Public Safety, Emergency Management	38688	R704-1	5YR	07/07/2014	2014-15/68	
	38704	R704-1	R&R	09/29/2014	2014-16/27	
<u>fire</u>						
Regents (Board Of), University of Utah, Administration	38355	R805-3	5YR	03/14/2014	2014-7/95	
<u>fire authority</u>						
Environmental Quality, Air Quality	38673	R307-202	AMD	10/06/2014	2014-15/6	
<u>fireplaces</u>						
Environmental Quality, Air Quality	38166	R307-302	AMD	03/06/2014	2014-1/20	
<u>fiscal policies and procedures</u>						
Education, Administration	38772	R277-113-4	AMD	10/09/2014	2014-17/39	
<u>fish</u>						
Natural Resources, Wildlife Resources	38167	R657-13	AMD	02/10/2014	2014-1/54	
	38316	R657-13	AMD	04/21/2014	2014-6/66	
	38483	R657-13	AMD	07/08/2014	2014-11/160	
	38236	R657-60	AMD	03/11/2014	2014-3/32	
	38477	R657-60	AMD	06/24/2014	2014-10/99	
<u>fishing</u>						
Natural Resources, Wildlife Resources	38167	R657-13	AMD	02/10/2014	2014-1/54	
	38316	R657-13	AMD	04/21/2014	2014-6/66	
	38483	R657-13	AMD	07/08/2014	2014-11/160	
<u>flares</u>						
Environmental Quality, Air Quality	38581	R307-503	NEW	12/01/2014	2014-13/42	
	38581	R307-503	CPR	12/01/2014	2014-21/87	
<u>flat wood paneling</u>						
Environmental Quality, Air Quality	38682	R307-349	AMD	12/01/2014	2014-15/30	
	38682	R307-349	CPR	12/01/2014	2014-21/67	
<u>fleet expansion</u>						
Administrative Services, Fleet Operations	38312	R27-4-13	AMD	04/22/2014	2014-6/4	
<u>foil coating</u>						
Environmental Quality, Air Quality	38677	R307-344	AMD	12/01/2014	2014-15/19	
	38677	R307-344	CPR	12/01/2014	2014-21/59	
<u>food</u>						
Agriculture and Food, Regulatory Services	38262	R70-530	R&R	03/27/2014	2014-4/5	
<u>food inspections</u>						
Agriculture and Food, Regulatory Services	38315	R70-410	AMD	05/08/2014	2014-6/5	
	38872	R70-440	5YR	09/16/2014	2014-20/73	
	38871	R70-540	5YR	09/16/2014	2014-20/74	
<u>food program</u>						
Education, Administration	38351	R277-724	5YR	03/14/2014	2014-7/90	

RULES INDEX

food services

Health, Disease Control and Prevention, Environmental Services	38229	R392-101	5YR	01/10/2014	2014-3/49
	38656	R392-104	NEW	09/12/2014	2014-14/53

food stamps

Workforce Services, Employment Development	38663	R986-900-902	AMD	10/01/2014	2014-14/75
	38750	R986-900-902	AMD	11/06/2014	2014-17/125

foods

Education, Administration	38628	R277-719	AMD	08/07/2014	2014-13/35
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forced medication hearings and treatment procedures for children

Human Services, Substance Abuse and Mental Health	38298	R523-6	NEW	04/07/2014	2014-5/45
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foreign deposits

Money Management Council, Administration	38179	R628-20	NEW	02/18/2014	2014-1/41
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former foster care youth

Health, Health Care Financing, Coverage and Reimbursement Policy	38401	R414-303	AMD	06/01/2014	2014-8/27
	38465	R414-303	AMD	07/01/2014	2014-10/51
	38888	R414-303-9	AMD	12/01/2014	2014-20/56
	38818	R414-303-11	AMD	11/01/2014	2014-18/16

foster care

Human Services, Administration, Administrative Services, Licensing	38862	R501-12	R&R	11/17/2014	2014-19/49
Human Services, Child and Family Services	38217	R512-43	AMD	03/10/2014	2014-3/15
	38743	R512-310	NEW	10/08/2014	2014-17/112

fraud

Commerce, Consumer Protection	38125	R152-26	AMD	01/07/2014	2013-23/4
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freedom of information

Natural Resources, Parks and Recreation	38343	R651-102	NSC	04/01/2014	Not Printed
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freedom of religion

Education, Administration	38409	R277-105	5YR	04/04/2014	2014-9/51
	38432	R277-105	AMD	06/09/2014	2014-9/8

funding formula

Human Services, Substance Abuse and Mental Health	38292	R523-4	NEW	04/07/2014	2014-5/36
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funeral directors

Commerce, Occupational and Professional Licensing	38737	R156-9	AMD	10/09/2014	2014-17/25
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funeral industries

Commerce, Occupational and Professional Licensing	38737	R156-9	AMD	10/09/2014	2014-17/25
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furbearers

Natural Resources, Wildlife Resources	38848	R657-11	AMD	11/07/2014	2014-19/71
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game laws

Natural Resources, Wildlife Resources	38168	R657-5	AMD	02/10/2014	2014-1/44
	38600	R657-6	AMD	08/11/2014	2014-13/102
	38231	R657-10	AMD	03/11/2014	2014-3/23
	38849	R657-10	AMD	11/07/2014	2014-19/69
	38848	R657-11	AMD	11/07/2014	2014-19/71
	38601	R657-54	AMD	08/11/2014	2014-13/111
	38790	R657-54	5YR	08/18/2014	2014-18/97
	38172	R657-67	NEW	02/10/2014	2014-1/70
	38484	R657-67	AMD	07/08/2014	2014-11/165
	38602	R657-68	NEW	08/11/2014	2014-13/120
	38950	R657-68	NSC	11/28/2014	Not Printed

<u>gas</u>						
Environmental Quality, Air Quality	38579	R307-501	NEW	12/01/2014	2014-13/39	
	38579	R307-501	CPR	12/01/2014	2014-21/84	
	38580	R307-502	NEW	12/01/2014	2014-13/40	
	38580	R307-502	CPR	12/01/2014	2014-21/86	
	38581	R307-503	NEW	12/01/2014	2014-13/42	
	38581	R307-503	CPR	12/01/2014	2014-21/87	
	38582	R307-504	NEW	10/07/2014	2014-13/43	
<u>general construction provisions</u>						
Administrative Services, Purchasing and General Services	38511	R33-13	NEW	07/08/2014	2014-11/79	
<u>general procurement provisions</u>						
Administrative Services, Purchasing and General Services	38500	R33-1	R&R	07/08/2014	2014-11/4	
	38689	R33-1	5YR	07/08/2014	2014-15/61	
	38503	R33-4	R&R	07/08/2014	2014-11/28	
	38692	R33-4	5YR	07/08/2014	2014-15/62	
<u>general provisions</u>						
Administrative Services, Purchasing and General Services	38518	R33-19	NEW	07/08/2014	2014-11/90	
	38519	R33-20	NEW	07/08/2014	2014-11/91	
<u>geothermal natural bathing places</u>						
Health, Disease Control and Prevention, Environmental Services	38285	R392-303	5YR	02/11/2014	2014-5/60	
	38176	R392-303	AMD	02/24/2014	2014-1/25	
<u>geothermal pools</u>						
Health, Disease Control and Prevention, Environmental Services	38285	R392-303	5YR	02/11/2014	2014-5/60	
	38176	R392-303	AMD	02/24/2014	2014-1/25	
<u>geothermal spas</u>						
Health, Disease Control and Prevention, Environmental Services	38285	R392-303	5YR	02/11/2014	2014-5/60	
	38176	R392-303	AMD	02/24/2014	2014-1/25	
<u>government access management</u>						
Crime Victim Reparations, Administration	38499	R270-4	5YR	05/12/2014	2014-11/171	
<u>government corporations</u>						
Workforce Services, Unemployment Insurance	38667	R994-311	5YR	07/01/2014	2014-14/85	
<u>government documents</u>						
Administrative Services, Records Committee	38572	R35-1	5YR	06/03/2014	2014-13/133	
	38640	R35-1	AMD	09/09/2014	2014-14/5	
	38573	R35-1a	5YR	06/03/2014	2014-13/134	
	38641	R35-1a	AMD	09/09/2014	2014-14/7	
	38574	R35-2	5YR	06/03/2014	2014-13/135	
	38642	R35-2	AMD	09/16/2014	2014-14/8	
	38575	R35-3	5YR	06/03/2014	2014-13/135	
	38647	R35-3	REP	09/16/2014	2014-14/10	
	38576	R35-4	5YR	06/03/2014	2014-13/136	
	38643	R35-4	AMD	09/16/2014	2014-14/11	
	38577	R35-5	5YR	06/03/2014	2014-13/136	
	38645	R35-5	AMD	09/16/2014	2014-14/12	
	38578	R35-6	5YR	06/03/2014	2014-13/137	
	38646	R35-6	AMD	09/16/2014	2014-14/13	
Attorney General, Administration	38245	R105-2	NSC	01/30/2014	Not Printed	
	38749	R105-2	NSC	08/28/2014	Not Printed	
Environmental Quality, Administration	38244	R305-1	NSC	01/30/2014	Not Printed	
Natural Resources, Parks and Recreation	38343	R651-102	NSC	04/01/2014	Not Printed	
Workforce Services, Administration	38718	R982-407	AMD	10/01/2014	2014-16/41	

RULES INDEX

government ethics

Human Resource Management, Administration 38460 R477-9 AMD 07/01/2014 2014-10/84

government purchasing

Administrative Services, Purchasing and General Services 38500 R33-1 R&R 07/08/2014 2014-11/4

38689 R33-1 5YR 07/08/2014 2014-15/61

38501 R33-2 R&R 07/08/2014 2014-11/6

38690 R33-2 5YR 07/08/2014 2014-15/61

38502 R33-3 R&R 07/08/2014 2014-11/9

38691 R33-3 5YR 07/08/2014 2014-15/62

38503 R33-4 R&R 07/08/2014 2014-11/28

38692 R33-4 5YR 07/08/2014 2014-15/62

38504 R33-5 R&R 07/08/2014 2014-11/32

38693 R33-5 5YR 07/08/2014 2014-15/63

38218 R33-6 EXT 01/02/2014 2014-3/57

38446 R33-6 5YR 04/17/2014 2014-10/111

38505 R33-6 R&R 07/08/2014 2014-11/43

38694 R33-6 5YR 07/08/2014 2014-15/64

38756 R33-6-103 AMD 10/08/2014 2014-17/13

38219 R33-7 EXT 01/02/2014 2014-3/57

38447 R33-7 5YR 04/17/2014 2014-10/111

38506 R33-7 R&R 07/08/2014 2014-11/49

38695 R33-7 5YR 07/08/2014 2014-15/64

38759 R33-7-201 AMD 10/08/2014 2014-17/15

38757 R33-7-601 AMD 10/08/2014 2014-17/16

38507 R33-8 R&R 07/08/2014 2014-11/56

38696 R33-8 5YR 07/08/2014 2014-15/65

38220 R33-9 EXT 01/02/2014 2014-3/57

38448 R33-9 5YR 04/17/2014 2014-10/112

38508 R33-9 R&R 07/08/2014 2014-11/59

38697 R33-9 5YR 07/08/2014 2014-15/65

38513 R33-15 NEW 07/08/2014 2014-11/84

38514 R33-16 NEW 07/08/2014 2014-11/86

38526 R33-22 NEW 07/08/2014 2014-11/94

38527 R33-23 NEW 07/08/2014 2014-11/95

38522 R33-25 NEW 07/08/2014 2014-11/97

government records

Corrections, Administration 38255 R251-111 NEW 03/26/2014 2014-4/25

government records access

Crime Victim Reparations, Administration 38259 R270-4 EXT 01/27/2014 2014-4/75

Governmental Immunity Act caps

Administrative Services, Risk Management 38250 R37-4 AMD 04/30/2014 2014-4/4

grading system

Education, Administration 38111 R277-497 AMD 01/08/2014 2013-23/8

GRAMA

Attorney General, Administration 38245 R105-2 NSC 01/30/2014 Not Printed

38749 R105-2 NSC 08/28/2014 Not Printed

Corrections, Administration 38255 R251-111 NEW 03/26/2014 2014-4/25

Environmental Quality, Administration 38244 R305-1 NSC 01/30/2014 Not Printed

Regents (Board Of), Salt Lake Community College 38362 R784-1 5YR 03/17/2014 2014-8/50

GRAMA appeals

Administrative Services, Administration 38570 R13-2 5YR 06/02/2014 2014-12/53

38569 R13-2 AMD 07/22/2014 2014-12/6

GRAMA requests

Administrative Services, Administration 38570 R13-2 5YR 06/02/2014 2014-12/53

38569 R13-2 AMD 07/22/2014 2014-12/6

<u>grant applications</u>						
Heritage and Arts, History	38923	R455-13	5YR	10/28/2014	2014-22/41	
<u>grant prioritizations</u>						
Heritage and Arts, History	38923	R455-13	5YR	10/28/2014	2014-22/41	
<u>grants</u>						
Education, Administration	38295	R277-117	5YR	02/13/2014	2014-5/59	
	38299	R277-117	AMD	04/07/2014	2014-5/16	
	38774	R277-402	NEW	10/09/2014	2014-17/44	
Health, Family Health and Preparedness, Primary Care and Rural Health	38637	R434-30	AMD	08/21/2014	2014-14/64	
	38305	R434-40	NEW	05/08/2014	2014-6/53	
Heritage and Arts, History	38923	R455-13	5YR	10/28/2014	2014-22/41	
<u>grants and loans</u>						
Environmental Quality, Administration	38525	R305-4	AMD	07/08/2014	2014-11/118	
<u>graywater</u>						
Environmental Quality, Water Quality	38481	R317-401	5YR	05/06/2014	2014-11/173	
<u>great seal</u>						
Lieutenant Governor, Administration	38379	R622-2	5YR	03/24/2014	2014-8/46	
<u>greenhouse gases</u>						
Environmental Quality, Air Quality	38491	R307-401-12	AMD	08/07/2014	2014-11/127	
	37833	R307-401-19	AMD	01/06/2014	2013-15/29	
	37833	R307-401-19	CPR	01/06/2014	2013-23/55	
	38260	R307-405	5YR	01/28/2014	2014-4/70	
<u>grievance procedures</u>						
Human Services, Child and Family Services	38264	R512-75	5YR	01/28/2014	2014-4/72	
<u>grievances</u>						
Human Resource Management, Administration	38454	R477-3-4	AMD	07/01/2014	2014-10/63	
<u>harmful behavior</u>						
Regents (Board Of), University of Utah, Administration	38918	R805-4	5YR	10/16/2014	2014-22/42	
<u>Hatch Act</u>						
Human Resource Management, Administration	38460	R477-9	AMD	07/01/2014	2014-10/84	
<u>hazardous air pollutant</u>						
Environmental Quality, Air Quality	38492	R307-214	AMD	08/07/2014	2014-11/123	
	38105	R307-214-3	AMD	03/06/2014	2013-23/18	
<u>hazardous air pollutants</u>						
Environmental Quality, Air Quality	38489	R307-410-2	AMD	08/07/2014	2014-11/128	
	38490	R307-410-6	AMD	08/07/2014	2014-11/129	
<u>hazardous substances</u>						
Environmental Quality, Environmental Response and Remediation	38764	R311-201-12	AMD	10/10/2014	2014-17/76	
	38765	R311-204-3	AMD	10/10/2014	2014-17/79	
	38766	R311-206-11	AMD	10/10/2014	2014-17/80	
	38768	R311-212	AMD	10/10/2014	2014-17/84	
<u>hazardous waste</u>						
Environmental Quality, Solid and Hazardous Waste	38609	R315-1-1	AMD	08/15/2014	2014-13/44	
	38610	R315-2-4	AMD	08/15/2014	2014-13/47	
	38334	R315-8-14	NSC	04/01/2014	Not Printed	
	38335	R315-12	NSC	04/01/2014	Not Printed	
	38611	R315-15	AMD	10/03/2014	2014-13/56	
	38611	R315-15	CPR	10/03/2014	2014-17/130	
	38961	R315-16	5YR	11/18/2014	Not Printed	
	38960	R315-102	5YR	11/18/2014	Not Printed	

RULES INDEX

health

Health, Administration	38586	R380-25	5YR	06/09/2014	2014-13/140
Health, Center for Health Data, Health Care Statistics	38571	R428-1	AMD	08/05/2014	2014-12/16
	38562	R428-2	R&R	08/05/2014	2014-12/18
	38563	R428-5	AMD	08/05/2014	2014-12/23
	38564	R428-10	R&R	08/05/2014	2014-12/26
	38565	R428-11	R&R	08/05/2014	2014-12/30
	38567	R428-13	AMD	08/05/2014	2014-12/36

health care

Health, Family Health and Preparedness, Children with Special Health Care Needs	38319	R398-1	AMD	07/01/2014	2014-6/25
	38839	R398-1	5YR	09/04/2014	2014-19/80

health care facilities

Health, Family Health and Preparedness, Licensing	38086	R432-2-5	AMD	01/24/2014	2013-22/123
	38173	R432-3	AMD	02/27/2014	2014-1/37
	38391	R432-7	5YR	04/01/2014	2014-8/40
	38392	R432-8	5YR	04/01/2014	2014-8/41
	38393	R432-9	5YR	04/01/2014	2014-8/41
	38394	R432-10	5YR	04/01/2014	2014-8/42
	38395	R432-11	5YR	04/01/2014	2014-8/42
	38396	R432-12	5YR	04/01/2014	2014-8/43
	38397	R432-13	5YR	04/01/2014	2014-8/43
	38422	R432-14	5YR	04/10/2014	2014-9/54
	38398	R432-30	5YR	04/01/2014	2014-8/44
	38399	R432-32	5YR	04/01/2014	2014-8/44
	38654	R432-45	NEW	08/25/2014	2014-14/58
	38423	R432-270	5YR	04/10/2014	2014-9/54
	38341	R432-270	AMD	05/20/2014	2014-7/65

health care professionals

Public Safety, Driver License	38487	R708-7	NSC	05/29/2014	Not Printed
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health care quality

Health, Center for Health Data, Health Care Statistics	38566	R428-12	AMD	08/05/2014	2014-12/34
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health facility administrators

Commerce, Occupational and Professional Licensing	38337	R156-15	AMD	05/08/2014	2014-7/5
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health insurance

Administrative Services, Facilities Construction and Management	38587	R23-23	5YR	06/10/2014	2014-13/133
	38615	R23-23	AMD	08/07/2014	2014-13/18
Capitol Preservation Board (State), Administration	38476	R131-13	5YR	05/01/2014	2014-10/113
	38479	R131-13	AMD	07/08/2014	2014-11/103
Human Services, Recovery Services	38728	R527-10	5YR	08/04/2014	2014-17/138
Insurance, Administration	38798	R590-167	5YR	08/20/2014	2014-18/95
	38787	R590-172	REP	10/10/2014	2014-17/114
	38784	R590-199	AMD	10/10/2014	2014-17/115
	38786	R590-249	AMD	10/10/2014	2014-17/119
Transportation, Operations, Construction	38861	R916-5	5YR	09/12/2014	2014-19/81

health insurance exclusions

Insurance, Administration	38286	R590-249-1	NSC	02/27/2014	Not Printed
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health insurance filings

Insurance, Administration	38311	R590-220	5YR	02/24/2014	2014-6/75
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health insurance in state contracts

Transportation, Operations, Construction	38861	R916-5	5YR	09/12/2014	2014-19/81
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health maintenance organization

Health, Center for Health Data, Health Care Statistics	38566	R428-12	AMD	08/05/2014	2014-12/34
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<u>health maintenance organizations</u>						
Insurance, Administration	38969	R590-232	5YR	11/21/2014	Not Printed	
<u>health planning</u>						
Health, Center for Health Data, Health Care Statistics	38571	R428-1	AMD	08/05/2014	2014-12/16	
	38562	R428-2	R&R	08/05/2014	2014-12/18	
	38563	R428-5	AMD	08/05/2014	2014-12/23	
	38564	R428-10	R&R	08/05/2014	2014-12/26	
	38565	R428-11	R&R	08/05/2014	2014-12/30	
	38567	R428-13	AMD	08/05/2014	2014-12/36	
<u>health policy</u>						
Health, Center for Health Data, Health Care Statistics	38571	R428-1	AMD	08/05/2014	2014-12/16	
	38562	R428-2	R&R	08/05/2014	2014-12/18	
	38563	R428-5	AMD	08/05/2014	2014-12/23	
	38567	R428-13	AMD	08/05/2014	2014-12/36	
<u>health reform</u>						
Transportation, Operations, Construction	38861	R916-5	5YR	09/12/2014	2014-19/81	
<u>health spas</u>						
Commerce, Consumer Protection	38748	R152-23	AMD	10/16/2014	2014-17/22	
<u>hearing aids</u>						
Commerce, Occupational and Professional Licensing	38155	R156-46a	AMD	01/21/2014	2013-24/7	
	38257	R156-46a	5YR	01/27/2014	2014-4/69	
<u>hearing instrument interns</u>						
Commerce, Occupational and Professional Licensing	38155	R156-46a	AMD	01/21/2014	2013-24/7	
	38257	R156-46a	5YR	01/27/2014	2014-4/69	
<u>hearing instrument specialists</u>						
Commerce, Occupational and Professional Licensing	38155	R156-46a	AMD	01/21/2014	2013-24/7	
	38257	R156-46a	5YR	01/27/2014	2014-4/69	
<u>hearings</u>						
Administrative Services, Purchasing and General Services	38515	R33-17	NEW	07/08/2014	2014-11/87	
Environmental Quality, Air Quality	38252	R307-103-1	NSC	01/31/2014	Not Printed	
Environmental Quality, Solid and Hazardous Waste	38335	R315-12	NSC	04/01/2014	Not Printed	
Labor Commission, Adjudication	38306	R602-2	AMD	04/22/2014	2014-6/61	
	38554	R602-2-4	AMD	07/22/2014	2014-12/41	
	38193	R602-2-5	AMD	02/21/2014	2014-2/7	
	38327	R602-7	5YR	03/05/2014	2014-7/94	
	38328	R602-8	5YR	03/05/2014	2014-7/94	
Pardons (Board Of), Administration	38325	R671-201	AMD	05/08/2014	2014-7/78	
	38878	R671-201	5YR	09/22/2014	2014-20/77	
	38314	R671-201-1	EMR	03/01/2014	2014-6/73	
Workforce Services, Administration	38714	R982-401	AMD	10/01/2014	2014-16/32	
<u>HEAT</u>						
Workforce Services, Administration	38715	R982-402	AMD	10/01/2014	2014-16/34	
<u>Help America Vote Act</u>						
Lieutenant Governor, Elections	38384	R623-2	5YR	03/26/2014	2014-8/47	
<u>hemp extract registration</u>						
Health, Center for Health Data, Vital Records and Statistics	38537	R436-55	NEW	07/08/2014	2014-11/155	
<u>higher education</u>						
Education, Administration	38852	R277-713	NSC	09/30/2014	Not Printed	
Money Management Council, Administration	38179	R628-20	NEW	02/18/2014	2014-1/41	
Regents (Board Of), Administration	38820	R765-604	5YR	08/26/2014	2014-18/98	
<u>highly qualified</u>						
Education, Administration	38289	R277-510-4	NSC	02/27/2014	Not Printed	

RULES INDEX

<u>HIPAA eligibility</u> Insurance, Administration	38785	R590-236	REP	10/10/2014	2014-17/117
<u>hiring practices</u> Human Resource Management, Administration	38458 38077	R477-4 R477-4-4	AMD AMD	07/01/2014 01/14/2014	2014-10/63 2013-22/124
<u>HMO insurance</u> Insurance, Administration	38827	R590-76	5YR	08/29/2014	2014-18/93
<u>holidays</u> Human Resource Management, Administration	38084 38455	R477-7 R477-7	AMD AMD	01/14/2014 07/01/2014	2013-22/126 2014-10/71
<u>home care services</u> Human Services, Aging and Adult Services	38671	R510-400-16	AMD	10/08/2014	2014-15/53
<u>home-delivered meals</u> Human Services, Aging and Adult Services	38670	R510-104	5YR	07/02/2014	2014-15/67
<u>hospital policy</u> Health, Center for Health Data, Health Care Statistics	38564 38565	R428-10 R428-11	R&R R&R	08/05/2014 08/05/2014	2014-12/26 2014-12/30
<u>hospitals</u> Health, Health Care Financing, Coverage and Reimbursement Policy	38369	R414-1B	5YR	03/18/2014	2014-8/39
<u>hostile work environment</u> Human Resource Management, Administration	38463	R477-15	AMD	07/01/2014	2014-10/90
<u>hot springs</u> Health, Disease Control and Prevention, Environmental Services	38285 38176	R392-303 R392-303	5YR AMD	02/11/2014 02/24/2014	2014-5/60 2014-1/25
<u>housing</u> Heritage and Arts, History	38932	R455-11	5YR	11/03/2014	2014-23/56
<u>housing finance</u> Housing Corporation (Utah), Administration	38788 38452	R460-3-1 R460-6	AMD AMD	10/09/2014 07/10/2014	2014-17/110 2014-10/55
<u>human services</u> Human Services, Administration, Administrative Services, Licensing	38862 38812 38835	R501-12 R501-21 R501-22	R&R AMD AMD	11/17/2014 11/03/2014 10/23/2014	2014-19/49 2014-18/22 2014-18/25
<u>hunter education</u> Natural Resources, Wildlife Resources	38172 38484 38602 38950	R657-67 R657-67 R657-68 R657-68	NEW AMD NEW NSC	02/10/2014 07/08/2014 08/11/2014 11/28/2014	2014-1/70 2014-11/165 2014-13/120 Not Printed
<u>hunting</u> Natural Resources, Wildlife Resources	38170	R657-38	AMD	02/10/2014	2014-1/61
<u>hunting guides</u> Commerce, Occupational and Professional Licensing	38735	R156-79	5YR	08/05/2014	2014-17/137
<u>hydraulic modeling</u> Environmental Quality, Drinking Water	38013	R309-511	AMD	01/21/2014	2013-19/48
<u>identity theft</u> Technology Services, Administration	38480	R895-13	5YR	05/05/2014	2014-11/174

<u>ignition interlock systems</u>					
Public Safety, Driver License	38196	R708-31	AMD	02/21/2014	2014-2/8
	38374	R708-31	5YR	03/18/2014	2014-8/49
<u>illegal behavior</u>					
Regents (Board Of), University of Utah, Administration	38918	R805-4	5YR	10/16/2014	2014-22/42
<u>implementation</u>					
Administrative Services, Facilities Construction and Management	38615	R23-23	AMD	08/07/2014	2014-13/18
<u>import restrictions</u>					
Natural Resources, Wildlife Resources	38616	R657-3	AMD	08/11/2014	2014-13/100
<u>in-service training</u>					
Public Safety, Peace Officer Standards and Training	38377	R728-502	5YR	03/19/2014	2014-8/50
<u>incidents</u>					
Administrative Services, Fleet Operations	38073	R27-7-3	AMD	03/11/2014	2013-22/14
<u>income</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	38724	R414-304	AMD	10/01/2014	2014-16/17
	38317	R414-304-5	AMD	04/21/2014	2014-6/30
<u>income eligibility</u>					
Workforce Services, Administration	38716	R982-403	AMD	10/01/2014	2014-16/37
<u>individual open enrollment period</u>					
Insurance, Administration	38088	R590-269	NEW	01/13/2014	2013-22/144
	38376	R590-269-4	AMD	06/02/2014	2014-8/29
<u>industrial waste</u>					
Environmental Quality, Water Quality	38235	R317-1-7	AMD	03/27/2014	2014-3/13
	38402	R317-1-7	AMD	08/01/2014	2014-8/13
<u>information technology resources</u>					
Technology Services, Administration	38428	R895-7	5YR	04/15/2014	2014-9/60
	38470	R895-7	AMD	09/11/2014	2014-10/100
<u>initiatives</u>					
Education, Administration	38774	R277-402	NEW	10/09/2014	2014-17/44
<u>inmates</u>					
Education, Administration	38352	R277-735	5YR	03/14/2014	2014-7/91
	38360	R277-735	AMD	05/08/2014	2014-7/11
Pardons (Board Of), Administration	38877	R671-103	5YR	09/22/2014	2014-20/76
	38325	R671-201	AMD	05/08/2014	2014-7/78
	38878	R671-201	5YR	09/22/2014	2014-20/77
	38314	R671-201-1	EMR	03/01/2014	2014-6/73
	38896	R671-309	5YR	10/02/2014	2014-21/92
	38629	R671-309-1	AMD	09/29/2014	2014-13/122
	38876	R671-309-2	AMD	11/24/2014	2014-20/61
<u>inspections</u>					
Agriculture and Food, Animal Industry	38251	R58-20	5YR	01/17/2014	2014-4/67
Agriculture and Food, Regulatory Services	38262	R70-530	R&R	03/27/2014	2014-4/5
	38846	R70-960	5YR	09/08/2014	2014-19/79
Environmental Quality, Radiation Control	38752	R313-12-3	AMD	10/21/2014	2014-17/88
<u>instructor certification</u>					
Commerce, Real Estate	38270	R162-2g	AMD	03/31/2014	2014-4/16
	38389	R162-2g	AMD	05/22/2014	2014-8/8
Public Safety, Peace Officer Standards and Training	38377	R728-502	5YR	03/19/2014	2014-8/50

RULES INDEX

insurance

Human Resource Management, Administration	38469	R477-6	AMD	07/01/2014	2014-10/67
	38092	R477-6-9	AMD	01/14/2014	2013-22/125
Insurance, Administration	38417	R590-166	5YR	04/07/2014	2014-9/57
	38283	R590-170	5YR	02/11/2014	2014-5/62
	38823	R590-170-4	AMD	10/30/2014	2014-18/29
	38555	R590-171	5YR	05/27/2014	2014-12/56
	38273	R590-186-8	AMD	03/26/2014	2014-4/43
	38966	R590-196	5YR	11/21/2014	Not Printed
	38090	R590-229	AMD	03/11/2014	2013-22/139
	38090	R590-229	CPR	03/11/2014	2014-3/44
	38797	R590-229	5YR	08/20/2014	2014-18/96
	38342	R590-229-9	AMD	05/27/2014	2014-7/72
	38559	R590-230	5YR	05/30/2014	2014-12/57
	38534	R590-270	NEW	09/22/2014	2014-11/158
Labor Commission, Industrial Accidents	38803	R612-400-1	AMD	10/22/2014	2014-18/55
	38804	R612-400-2	AMD	10/22/2014	2014-18/56
	38808	R612-400-3	AMD	10/22/2014	2014-18/58
	38807	R612-400-4	AMD	10/22/2014	2014-18/63
Natural Resources, Parks and Recreation	38441	R651-409	AMD	06/09/2014	2014-9/38

insurance alternative coverage

Insurance, Administration	38789	R590-255	REP	10/10/2014	2014-17/121
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insurance companies

Insurance, Administration	38799	R590-127	5YR	08/20/2014	2014-18/94
	38794	R590-129	5YR	08/20/2014	2014-18/95
	38968	R590-198	5YR	11/21/2014	Not Printed

insurance company financial reporting

Insurance, Administration	38669	R590-254	5YR	07/02/2014	2014-15/68
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insurance email address requirements

Insurance, Administration	38284	R590-258-1	NSC	02/27/2014	Not Printed
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insurance health benefit plans

Insurance, Administration	38726	R590-263	REP	10/10/2014	2014-16/25
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insurance law

Insurance, Administration	38828	R590-67	5YR	08/29/2014	2014-18/92
	38795	R590-79	5YR	08/20/2014	2014-18/93
	38793	R590-83	5YR	08/20/2014	2014-18/94
	38069	R590-96	AMD	01/21/2014	2013-22/137
	38414	R590-98	5YR	04/07/2014	2014-9/56
	38416	R590-190	5YR	04/07/2014	2014-9/57
	38415	R590-191	5YR	04/07/2014	2014-9/58
	38635	R590-192	5YR	06/17/2014	2014-14/83
	38796	R590-194	5YR	08/20/2014	2014-18/96
	38967	R590-197	5YR	11/21/2014	Not Printed

insurance licensing

Insurance, Administration	38307	R590-195	5YR	02/20/2014	2014-6/75
	38308	R590-195	REP	04/22/2014	2014-6/59

insurance licensing requirements

Insurance, Administration	38620	R590-244	5YR	06/16/2014	2014-13/141
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intellectual disability

Health, Family Health and Preparedness, Children with Special Health Care Needs	38340	R398-10	NSC	04/01/2014	Not Printed
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international guest teachers

Education, Administration	38190	R277-527	AMD	02/07/2014	2014-1/18
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interpreters

Education, Rehabilitation	38853	R280-203	5YR	09/09/2014	2014-19/80
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<u>intervention</u> Education, Administration	38627	R277-710	NEW	08/07/2014	2014-13/33
<u>intoxilyzers</u> Public Safety, Highway Patrol	38895	R714-500	5YR	10/02/2014	2014-21/93
<u>inventories</u> Environmental Quality, Air Quality	38261	R307-150	5YR	01/28/2014	2014-4/70
<u>investment advisers</u> Money Management Council, Administration	38281	R628-19	5YR	02/10/2014	2014-5/63
<u>involuntary commitment</u> Human Services, Substance Abuse and Mental Health	38293	R523-5	NEW	04/07/2014	2014-5/42
<u>IRIS</u> Technology Services, Administration	38480	R895-13	5YR	05/05/2014	2014-11/174
<u>IT bid committee</u> Technology Services, Administration	38933	R895-9	5YR	11/04/2014	2014-23/59
<u>IT planning</u> Technology Services, Administration	38386	R895-6	5YR	03/27/2014	2014-8/51
<u>IT standards council</u> Technology Services, Administration	38933	R895-9	5YR	11/04/2014	2014-23/59
<u>job descriptions</u> Human Resource Management, Administration	38454	R477-3-4	AMD	07/01/2014	2014-10/63
<u>judges</u> Judicial Performance Evaluation Commission, Administration	38303	R597-1	5YR	02/17/2014	2014-6/77
	38304	R597-3	5YR	02/17/2014	2014-6/77
	38438	R597-3	AMD	06/12/2014	2014-9/30
	38595	R597-3	AMD	08/08/2014	2014-13/97
<u>judicial evaluations</u> Judicial Performance Evaluation Commission, Administration	38303	R597-1	5YR	02/17/2014	2014-6/77
<u>judicial performance evaluations</u> Judicial Performance Evaluation Commission, Administration	38303	R597-1	5YR	02/17/2014	2014-6/77
	38304	R597-3	5YR	02/17/2014	2014-6/77
	38438	R597-3	AMD	06/12/2014	2014-9/30
	38595	R597-3	AMD	08/08/2014	2014-13/97
<u>judiciary</u> Judicial Performance Evaluation Commission, Administration	38303	R597-1	5YR	02/17/2014	2014-6/77
<u>justice court classifications</u> Judicial Performance Evaluation Commission, Administration	38440	R597-4	NEW	06/12/2014	2014-9/34
<u>justice court evaluations</u> Judicial Performance Evaluation Commission, Administration	38440	R597-4	NEW	06/12/2014	2014-9/34
<u>justice court multiple jurisdictions</u> Judicial Performance Evaluation Commission, Administration	38440	R597-4	NEW	06/12/2014	2014-9/34

RULES INDEX

<u>justice court multiple retention election years</u>					
Judicial Performance Evaluation Commission, Administration	38440	R597-4	NEW	06/12/2014	2014-9/34
<u>juvenile courts</u>					
Education, Administration	38116	R277-709	AMD	01/14/2014	2013-23/13
	38834	R277-709-1	NSC	09/19/2014	Not Printed
	38359	R277-709-11	AMD	05/08/2014	2014-7/10
<u>juvenile offenders</u>					
Education, Administration	38593	R277-714	5YR	06/10/2014	2014-13/140
<u>landowner permits</u>					
Natural Resources, Wildlife Resources	38232	R657-43	AMD	03/11/2014	2014-3/30
<u>landscape architects</u>					
Commerce, Occupational and Professional Licensing	38639	R156-53	AMD	08/21/2014	2014-14/43
<u>large appliance</u>					
Environmental Quality, Air Quality	38680	R307-347	AMD	12/01/2014	2014-15/26
	38680	R307-347	CPR	12/01/2014	2014-21/65
<u>large underground wastewater</u>					
Environmental Quality, Water Quality	38271	R317-5	R&R	03/26/2014	2014-4/26
<u>law enforcement</u>					
Public Safety, Highway Patrol	38711	R714-600	5YR	07/22/2014	2014-16/61
<u>law enforcement officer certification</u>					
Public Safety, Administration	38310	R698-4	5YR	02/21/2014	2014-6/78
<u>law enforcement officers</u>					
Public Safety, Peace Officer Standards and Training	38377	R728-502	5YR	03/19/2014	2014-8/50
<u>lead-based paint</u>					
Environmental Quality, Air Quality	38330	R307-840	5YR	03/06/2014	2014-7/92
<u>leadership skills</u>					
Education, Administration	38779	R277-619	AMD	10/09/2014	2014-17/52
<u>learner permits</u>					
Public Safety, Driver License	38373	R708-26	5YR	03/18/2014	2014-8/49
	38372	R708-26	NSC	04/14/2014	Not Printed
<u>leave benefits</u>					
Human Resource Management, Administration	38084	R477-7	AMD	01/14/2014	2013-22/126
	38455	R477-7	AMD	07/01/2014	2014-10/71
<u>liability</u>					
Natural Resources, Parks and Recreation	38441	R651-409	AMD	06/09/2014	2014-9/38
<u>licenses</u>					
Natural Resources, Wildlife Resources	38482	R657-45	AMD	07/08/2014	2014-11/163
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	38873	R722-310	AMD	11/21/2014	2014-20/64
<u>licensing</u>					
Commerce, Occupational and Professional Licensing	38659	R156-1	AMD	08/21/2014	2014-14/14
	38157	R156-1-501	AMD	01/21/2014	2013-24/6
	38253	R156-1-501	NSC	01/31/2014	Not Printed
	38737	R156-9	AMD	10/09/2014	2014-17/25
	38337	R156-15	AMD	05/08/2014	2014-7/5
	38733	R156-15A	AMD	10/09/2014	2014-17/26
	38549	R156-15A-231	AMD	07/22/2014	2014-12/10
	38792	R156-15A-231	AMD	10/23/2014	2014-18/5
	38638	R156-17b	AMD	08/21/2014	2014-14/21
	38473	R156-24b	AMD	06/23/2014	2014-10/9

	38657	R156-24b-505	AMD	08/21/2014	2014-14/41
	38475	R156-31b	R&R	06/23/2014	2014-10/11
	38801	R156-31c	5YR	08/21/2014	2014-18/89
	38885	R156-38a	NSC	11/03/2014	Not Printed
	38732	R156-38a-301a	NSC	08/28/2014	Not Printed
	38533	R156-38a-401	NSC	05/29/2014	Not Printed
	38517	R156-40	AMD	07/08/2014	2014-11/105
	38548	R156-40a-302a	AMD	07/22/2014	2014-12/13
	38254	R156-42a	5YR	01/21/2014	2014-4/68
	38313	R156-42a	AMD	04/21/2014	2014-6/24
	38249	R156-44a	5YR	01/16/2014	2014-4/69
	38155	R156-46a	AMD	01/21/2014	2013-24/7
	38257	R156-46a	5YR	01/27/2014	2014-4/69
	38639	R156-53	AMD	08/21/2014	2014-14/43
	38151	R156-55a	AMD	01/21/2014	2013-24/10
	38736	R156-55a	AMD	10/09/2014	2014-17/28
	38902	R156-55a-102	NSC	10/31/2014	Not Printed
	38380	R156-55a-301	NSC	04/14/2014	Not Printed
	38760	R156-55a-302f	AMD	10/09/2014	2014-17/31
	38648	R156-55b	AMD	08/21/2014	2014-14/44
	38731	R156-55c	AMD	10/09/2014	2014-17/33
	38825	R156-55d	AMD	10/23/2014	2014-18/8
	38421	R156-60	5YR	04/08/2014	2014-9/50
	38390	R156-60-102	AMD	05/22/2014	2014-8/6
	38730	R156-60a	5YR	08/04/2014	2014-17/135
	38734	R156-60b	5YR	08/05/2014	2014-17/136
	38233	R156-61	5YR	01/13/2014	2014-3/49
	38450	R156-63a	AMD	06/23/2014	2014-10/45
	38886	R156-63a	AMD	11/24/2014	2014-20/14
	38474	R156-63b	AMD	06/23/2014	2014-10/48
	38814	R156-64	AMD	10/23/2014	2014-18/10
	38106	R156-67	AMD	01/07/2014	2013-23/5
	38649	R156-67	AMD	08/21/2014	2014-14/46
	38107	R156-68	AMD	01/07/2014	2013-23/6
	38552	R156-68	AMD	07/28/2014	2014-12/14
	38149	R156-69	AMD	01/21/2014	2013-24/20
	38165	R156-72	AMD	02/10/2014	2014-1/8
	38375	R156-77	AMD	05/22/2014	2014-8/7
	38761	R156-78	5YR	08/14/2014	2014-17/136
	38735	R156-79	5YR	08/05/2014	2014-17/137
	38388	R156-80a	5YR	03/31/2014	2014-8/37
	38382	R156-81	5YR	03/25/2014	2014-8/37
Governor, Economic Development, Pete Suazo Utah Athletic Commission	38033	R359-1-604	AMD	01/24/2014	2013-20/25
Human Services, Administration, Administrative Services, Licensing	38862	R501-12	R&R	11/17/2014	2014-19/49
	38812	R501-21	AMD	11/03/2014	2014-18/22
	38835	R501-22	AMD	10/23/2014	2014-18/25
Natural Resources, Wildlife Resources	38230	R657-27	AMD	03/11/2014	2014-3/26
Public Safety, Driver License	38370	R708-10	5YR	03/18/2014	2014-8/48
	38407	R708-24	5YR	04/03/2014	2014-9/59
	38486	R708-24	NSC	05/29/2014	Not Printed
<u>liens</u>					
Commerce, Occupational and Professional Licensing	38885	R156-38a	NSC	11/03/2014	Not Printed
	38732	R156-38a-301a	NSC	08/28/2014	Not Printed
	38533	R156-38a-401	NSC	05/29/2014	Not Printed
<u>life insurance</u>					
Insurance, Administration	38413	R590-93	5YR	04/07/2014	2014-9/56
<u>life insurance filings</u>					
Insurance, Administration	38364	R590-226	5YR	03/18/2014	2014-8/45
	38290	R590-226-5	NSC	02/27/2014	Not Printed
<u>lifeline rates</u>					
Public Service Commission, Administration	38198	R746-341	AMD	02/24/2014	2014-2/9

RULES INDEX

	38545	R746-341	AMD	08/06/2014	2014-12/44
	38826	R746-341	AMD	11/05/2014	2014-18/65
<u>limitation on judgments</u>					
Administrative Services, Risk Management	38250	R37-4	AMD	04/30/2014	2014-4/4
<u>liquid waste</u>					
Environmental Quality, Water Quality	38387	R317-550	AMD	07/30/2014	2014-8/14
<u>literacy</u>					
Education, Administration	38113	R277-704	AMD	01/08/2014	2013-23/11
	38781	R277-704	AMD	10/09/2014	2014-17/55
<u>loans</u>					
Agriculture and Food, Conservation Commission	38712	R64-1	5YR	07/23/2014	2014-16/59
	38747	R64-1	AMD	10/08/2014	2014-17/20
<u>lobbyist regulations</u>					
Lieutenant Governor, Elections	38383	R623-1	5YR	03/26/2014	2014-8/47
<u>Local Mental Health Authority</u>					
Human Services, Substance Abuse and Mental Health	38292	R523-4	NEW	04/07/2014	2014-5/36
<u>Local Substance Abuse Authority</u>					
Human Services, Substance Abuse and Mental Health	38292	R523-4	NEW	04/07/2014	2014-5/36
<u>long-term care alternatives</u>					
Human Services, Aging and Adult Services	38671	R510-400-16	AMD	10/08/2014	2014-15/53
<u>lt. governor</u>					
Lieutenant Governor, Administration	38379	R622-2	5YR	03/24/2014	2014-8/46
<u>MACT</u>					
Environmental Quality, Air Quality	38492	R307-214	AMD	08/07/2014	2014-11/123
	38105	R307-214-3	AMD	03/06/2014	2013-23/18
<u>MAGI-based</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	38401	R414-303	AMD	06/01/2014	2014-8/27
	38465	R414-303	AMD	07/01/2014	2014-10/51
	38888	R414-303-9	AMD	12/01/2014	2014-20/56
	38818	R414-303-11	AMD	11/01/2014	2014-18/16
<u>magnet wire</u>					
Environmental Quality, Air Quality	38681	R307-348	AMD	10/07/2014	2014-15/28
<u>major plant additions</u>					
Public Service Commission, Administration	38874	R746-700	5YR	09/22/2014	2014-20/77
<u>marriage and family therapist</u>					
Commerce, Occupational and Professional Licensing	38734	R156-60b	5YR	08/05/2014	2014-17/136
<u>Medicaid</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	38191	R414-1-5	AMD	05/01/2014	2014-1/32
	38381	R414-1-5	AMD	07/28/2014	2014-8/22
	38599	R414-1-5	AMD	08/19/2014	2014-13/89
	38882	R414-1-5	AMD	11/21/2014	2014-20/51
	38369	R414-1B	5YR	03/18/2014	2014-8/39
	38560	R414-7A	5YR	05/30/2014	2014-12/54
	38655	R414-7B	REP	08/25/2014	2014-14/54
	38528	R414-9	AMD	07/11/2014	2014-11/150
	38430	R414-10A-6	AMD	06/11/2014	2014-9/27
	38371	R414-11	5YR	03/18/2014	2014-8/39
	38705	R414-13	AMD	09/25/2014	2014-16/5

38130	R414-14	AMD	01/10/2014	2013-23/26	
38561	R414-14	5YR	05/30/2014	2014-12/54	
38630	R414-14A	5YR	06/17/2014	2014-14/80	
38132	R414-21	AMD	01/10/2014	2013-23/28	
38650	R414-31	5YR	06/24/2014	2014-14/80	
38706	R414-33B	REP	09/25/2014	2014-16/6	
38707	R414-33D	AMD	09/25/2014	2014-16/8	
38708	R414-34	REP	09/25/2014	2014-16/11	
38709	R414-35	REP	09/25/2014	2014-16/12	
38710	R414-36	AMD	09/25/2014	2014-16/14	
38897	R414-36	5YR	10/03/2014	2014-21/91	
38431	R414-45	REP	06/11/2014	2014-9/29	
38133	R414-49	AMD	01/10/2014	2013-23/30	
38201	R414-49	NSC	01/23/2014	Not Printed	
38631	R414-49	5YR	06/17/2014	2014-14/81	
38134	R414-50	REP	01/10/2014	2013-23/32	
38135	R414-51	REP	01/10/2014	2013-23/33	
38227	R414-54	5YR	01/07/2014	2014-3/50	
38613	R414-54	AMD	08/26/2014	2014-13/94	
38614	R414-59	AMD	08/26/2014	2014-13/95	
38318	R414-61	AMD	04/21/2014	2014-6/29	
38927	R414-61	5YR	10/30/2014	2014-22/41	
38703	R414-61-2	AMD	09/26/2014	2014-16/16	
38368	R414-90	5YR	03/18/2014	2014-8/40	
38529	R414-99	AMD	07/11/2014	2014-11/151	
38791	R414-140	5YR	08/19/2014	2014-18/92	
38725	R414-305	AMD	10/01/2014	2014-16/20	
38889	R414-308-6	AMD	12/01/2014	2014-20/57	
38321	R414-310	AMD	04/21/2014	2014-6/32	
38815	R414-310	EMR	09/01/2014	2014-18/83	
38322	R414-320	AMD	04/21/2014	2014-6/42	
38816	R414-320	EMR	09/01/2014	2014-18/85	
38819	R414-320	AMD	11/01/2014	2014-18/18	
38418	R414-401	5YR	04/07/2014	2014-9/53	
38478	R414-401-3	AMD	07/01/2014	2014-10/53	
38632	R414-501	5YR	06/17/2014	2014-14/82	
38633	R414-502	5YR	06/17/2014	2014-14/82	
38141	R414-503	R&R	01/07/2014	2013-23/37	
38660	R414-503	5YR	07/01/2014	2014-14/83	
38584	R414-503-2	NSC	06/18/2014	Not Printed	
38532	R414-510	AMD	07/15/2014	2014-11/153	
38103	R414-511	NEW	01/13/2014	2013-23/42	
<u>medical examiner</u>					
Health, Disease Control and Prevention, Medical Examiner	38419	R448-10	5YR	04/07/2014	2014-9/55
	38420	R448-20	5YR	04/07/2014	2014-9/55
<u>medical language interpreter</u>					
Commerce, Occupational and Professional Licensing	38388	R156-80a	5YR	03/31/2014	2014-8/37
<u>medical practitioners</u>					
Labor Commission, Industrial Accidents	38810	R612-300	AMD	10/22/2014	2014-18/46
	38881	R612-300-4	AMD	11/24/2014	2014-20/59
<u>medical transportation</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	38466	R414-306	AMD	07/01/2014	2014-10/53
	38129	R414-306-5	AMD	01/10/2014	2013-23/35
<u>medically underserved</u>					
Health, Family Health and Preparedness, Primary Care and Rural Health	38637	R434-30	AMD	08/21/2014	2014-14/64
	38305	R434-40	NEW	05/08/2014	2014-6/53
<u>mental health</u>					
Commerce, Occupational and Professional Licensing	38421	R156-60	5YR	04/08/2014	2014-9/50

RULES INDEX

	38390	R156-60-102	AMD	05/22/2014	2014-8/6
<u>mental retardation</u>					
Health, Family Health and Preparedness, Children with Special Health Care Needs	38339	R398-10	5YR	03/12/2014	2014-7/92
<u>metal containers</u>					
Environmental Quality, Air Quality	38684	R307-352	AMD	12/01/2014	2014-15/34
	38684	R307-352	CPR	12/01/2014	2014-21/73
<u>metal furniture</u>					
Environmental Quality, Air Quality	38679	R307-346	AMD	12/01/2014	2014-15/23
	38679	R307-346	CPR	12/01/2014	2014-21/63
<u>midwife</u>					
Commerce, Occupational and Professional Licensing	38375	R156-77	AMD	05/22/2014	2014-8/7
<u>midwifery</u>					
Commerce, Occupational and Professional Licensing	38249	R156-44a	5YR	01/16/2014	2014-4/69
<u>migratory birds</u>					
Natural Resources, Wildlife Resources	38605	R657-9	AMD	08/11/2014	2014-13/106
<u>mineral resources</u>					
Tax Commission, Auditing	38222	R865-16R	5YR	01/06/2014	2014-3/54
<u>miscellaneous metal parts</u>					
Environmental Quality, Air Quality	38683	R307-350	AMD	12/01/2014	2014-15/32
	38683	R307-350	CPR	12/01/2014	2014-21/69
<u>modeling</u>					
Environmental Quality, Air Quality	38489	R307-410-2	AMD	08/07/2014	2014-11/128
	38490	R307-410-6	AMD	08/07/2014	2014-11/129
<u>monitoring</u>					
Education, Administration	38187	R277-481	AMD	02/07/2014	2014-1/15
<u>motor carrier</u>					
Public Safety, Highway Patrol	38711	R714-600	5YR	07/22/2014	2014-16/61
<u>motor vehicles</u>					
Environmental Quality, Administration	38525	R305-4	AMD	07/08/2014	2014-11/118
<u>multiple stage bidding</u>					
Administrative Services, Purchasing and General Services	38505	R33-6	R&R	07/08/2014	2014-11/43
	38694	R33-6	5YR	07/08/2014	2014-15/64
	38756	R33-6-103	AMD	10/08/2014	2014-17/13
<u>NCLB</u>					
Education, Administration	38349	R277-524	5YR	03/14/2014	2014-7/90
	38358	R277-524	AMD	05/08/2014	2014-7/8
<u>NESHAP</u>					
Environmental Quality, Air Quality	38492	R307-214	AMD	08/07/2014	2014-11/123
	38105	R307-214-3	AMD	03/06/2014	2013-23/18
<u>NetCare</u>					
Insurance, Administration	38789	R590-255	REP	10/10/2014	2014-17/121
<u>new source review</u>					
Environmental Quality, Air Quality	38104	R307-210-2	AMD	03/06/2014	2013-23/17
<u>newborn hearing screening</u>					
Health, Family Health and Preparedness, Children with Special Health Care Needs	38139	R398-4	NEW	01/17/2014	2013-23/25

<u>newborn screening</u>						
Health, Family Health and Preparedness, Children with Special Health Care Needs	38319	R398-1	AMD	07/01/2014	2014-6/25	
	38839	R398-1	5YR	09/04/2014	2014-19/80	
<u>non-licensed public education employees</u>						
Education, Administration	38777	R277-532-3	AMD	10/09/2014	2014-17/49	
<u>nonprofit organizations</u>						
Workforce Services, Unemployment Insurance	38665	R994-309	5YR	07/01/2014	2014-14/84	
<u>nonpublic schools</u>						
Education, Administration	38434	R277-410-5	AMD	06/09/2014	2014-9/13	
<u>notification requirements</u>						
Commerce, Real Estate	38213	R162-2f	AMD	02/25/2014	2014-2/4	
<u>nurses</u>						
Commerce, Occupational and Professional Licensing	38475	R156-31b	R&R	06/23/2014	2014-10/11	
	38801	R156-31c	5YR	08/21/2014	2014-18/89	
<u>nursing facility</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	38418	R414-401	5YR	04/07/2014	2014-9/53	
	38478	R414-401-3	AMD	07/01/2014	2014-10/53	
<u>nutrition</u>						
Education, Administration	38628	R277-719	AMD	08/07/2014	2014-13/35	
Human Services, Aging and Adult Services	38670	R510-104	5YR	07/02/2014	2014-15/67	
<u>occupational licensing</u>						
Commerce, Occupational and Professional Licensing	38548	R156-40a-302a	AMD	07/22/2014	2014-12/13	
	38151	R156-55a	AMD	01/21/2014	2013-24/10	
	38736	R156-55a	AMD	10/09/2014	2014-17/28	
	38902	R156-55a-102	NSC	10/31/2014	Not Printed	
	38380	R156-55a-301	NSC	04/14/2014	Not Printed	
	38760	R156-55a-302f	AMD	10/09/2014	2014-17/31	
	38648	R156-55b	AMD	08/21/2014	2014-14/44	
	38731	R156-55c	AMD	10/09/2014	2014-17/33	
<u>occupational safety and health</u>						
Labor Commission, Adjudication	38328	R602-8	5YR	03/05/2014	2014-7/94	
<u>occupational therapy</u>						
Commerce, Occupational and Professional Licensing	38254	R156-42a	5YR	01/21/2014	2014-4/68	
	38313	R156-42a	AMD	04/21/2014	2014-6/24	
<u>off-highway vehicles</u>						
Natural Resources, Parks and Recreation	38216	R651-411	5YR	01/02/2014	2014-3/51	
<u>oil</u>						
Environmental Quality, Air Quality	38579	R307-501	NEW	12/01/2014	2014-13/39	
	38579	R307-501	CPR	12/01/2014	2014-21/84	
	38580	R307-502	NEW	12/01/2014	2014-13/40	
	38580	R307-502	CPR	12/01/2014	2014-21/86	
	38581	R307-503	NEW	12/01/2014	2014-13/42	
	38581	R307-503	CPR	12/01/2014	2014-21/87	
	38582	R307-504	NEW	10/07/2014	2014-13/43	
<u>oil and gas law</u>						
Natural Resources, Oil, Gas and Mining; Oil and Gas	38741	R649-10	5YR	08/05/2014	2014-17/142	
<u>open burning</u>						
Environmental Quality, Air Quality	38673	R307-202	AMD	10/06/2014	2014-15/6	
<u>opening and closing dates</u>						
Workforce Services, Administration	38715	R982-402	AMD	10/01/2014	2014-16/34	

RULES INDEX

<u>operational requirements</u>						
Commerce, Real Estate	38213	R162-2f	AMD	02/25/2014	2014-2/4	
<u>operator certification</u>						
Environmental Quality, Water Quality	38531	R317-10	AMD	08/27/2014	2014-11/143	
<u>operator certifications</u>						
Public Safety, Highway Patrol	38895	R714-500	5YR	10/02/2014	2014-21/93	
<u>organ transplants</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	38821	R414-58	NSC	09/15/2014	Not Printed	
<u>orthodontia</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	38135	R414-51	REP	01/10/2014	2013-23/33	
<u>osteopathic physician</u>						
Commerce, Occupational and Professional Licensing	38107	R156-68	AMD	01/07/2014	2013-23/6	
	38552	R156-68	AMD	07/28/2014	2014-12/14	
<u>osteopaths</u>						
Commerce, Occupational and Professional Licensing	38107	R156-68	AMD	01/07/2014	2013-23/6	
	38552	R156-68	AMD	07/28/2014	2014-12/14	
<u>out of school time child care programs</u>						
Health, Family Health and Preparedness, Child Care Licensing	38543	R430-70	5YR	05/19/2014	2014-12/55	
<u>out patient treatment</u>						
Human Services, Administration, Administrative Services, Licensing	38812	R501-21	AMD	11/03/2014	2014-18/22	
<u>out-of-home care</u>						
Human Services, Child and Family Services	38265	R512-306	5YR	01/28/2014	2014-4/73	
<u>outfitters</u>						
Commerce, Occupational and Professional Licensing	38735	R156-79	5YR	08/05/2014	2014-17/137	
<u>overflow and drains</u>						
Environmental Quality, Drinking Water	38535	R309-545	AMD	11/10/2014	2014-11/130	
	38535	R309-545	CPR	11/10/2014	2014-16/48	
<u>overpayments</u>						
Human Services, Recovery Services	38550	R527-332	5YR	05/22/2014	2014-12/55	
Workforce Services, Unemployment Insurance	38965	R994-305	5YR	11/20/2014	Not Printed	
<u>oversight</u>						
Education, Administration	38187	R277-481	AMD	02/07/2014	2014-1/15	
<u>overtime</u>						
Human Resource Management, Administration	38459	R477-8	AMD	07/01/2014	2014-10/80	
<u>ownership</u>						
Natural Resources, Water Rights	38723	R655-3	5YR	08/01/2014	2014-16/59	
<u>ozone</u>						
Environmental Quality, Air Quality	38061	R307-110-17	AMD	01/09/2014	2013-21/8	
<u>paint</u>						
Environmental Quality, Air Quality	38330	R307-840	5YR	03/06/2014	2014-7/92	
<u>paleontological resources</u>						
Regents (Board Of), University of Utah, Museum of Natural History (Utah)	38354	R807-1	5YR	03/14/2014	2014-7/95	

<u>paper coating</u>						
Environmental Quality, Air Quality	38677	R307-344	AMD	12/01/2014	2014-15/19	
	38677	R307-344	CPR	12/01/2014	2014-21/59	
<u>papers</u>						
Health, Center for Health Data, Health Care Statistics	38905	R428-15	5YR	10/10/2014	2014-21/91	
<u>paraeducators</u>						
Education, Administration	38302	R277-526	AMD	04/07/2014	2014-5/23	
<u>paraprofessional qualifications</u>						
Education, Administration	38349	R277-524	5YR	03/14/2014	2014-7/90	
	38358	R277-524	AMD	05/08/2014	2014-7/8	
<u>parent notifications</u>						
Education, Administration	38780	R277-620	AMD	10/09/2014	2014-17/53	
<u>parental defense</u>						
Administrative Services, Child Welfare Parental Defense (Office of)	38547	R19-1	5YR	05/21/2014	2014-12/53	
<u>parental rights</u>						
Human Services, Administration	38280	R495-882	5YR	02/10/2014	2014-5/61	
<u>parks</u>						
Natural Resources, Parks and Recreation	38444	R651-205	AMD	06/09/2014	2014-9/36	
	38441	R651-409	AMD	06/09/2014	2014-9/38	
	38439	R651-608	AMD	06/09/2014	2014-9/40	
	38442	R651-619	AMD	06/09/2014	2014-9/41	
	38225	R651-636	5YR	01/06/2014	2014-3/51	
<u>parole</u>						
Pardons (Board Of), Administration	38877	R671-103	5YR	09/22/2014	2014-20/76	
	38325	R671-201	AMD	05/08/2014	2014-7/78	
	38878	R671-201	5YR	09/22/2014	2014-20/77	
	38314	R671-201-1	EMR	03/01/2014	2014-6/73	
	38896	R671-309	5YR	10/02/2014	2014-21/92	
	38629	R671-309-1	AMD	09/29/2014	2014-13/122	
	38876	R671-309-2	AMD	11/24/2014	2014-20/61	
	38875	R671-514	AMD	11/24/2014	2014-20/62	
<u>passport</u>						
Human Services, Recovery Services	38336	R527-275	5YR	03/06/2014	2014-7/93	
<u>pawnshops</u>						
Commerce, Consumer Protection	38763	R152-32a-2	AMD	10/16/2014	2014-17/23	
<u>payers</u>						
Health, Center for Health Data, Health Care Statistics	38144	R428-15	AMD	01/07/2014	2013-23/43	
	38568	R428-15	AMD	08/05/2014	2014-12/38	
<u>payment bonds</u>						
Administrative Services, Purchasing and General Services	38524	R33-11	R&R	07/08/2014	2014-11/64	
	38699	R33-11	5YR	07/08/2014	2014-15/66	
<u>payment determination</u>						
Workforce Services, Administration	38716	R982-403	AMD	10/01/2014	2014-16/37	
<u>PCN</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	38322	R414-320	AMD	04/21/2014	2014-6/42	
	38816	R414-320	EMR	09/01/2014	2014-18/85	
	38819	R414-320	AMD	11/01/2014	2014-18/18	
<u>peace officers</u>						
Public Safety, Peace Officer Standards and Training	38940	R728-205	5YR	11/07/2014	2014-23/58	

RULES INDEX

penalties

Environmental Quality, Drinking Water	38727	R309-400	AMD	11/17/2014	2014-17/60
Environmental Quality, Radiation Control	38076	R313-14	AMD	04/03/2014	2013-22/45
	38076	R313-14	CPR	04/03/2014	2014-4/50

people with disabilities

Human Services, Services for People with Disabilities	38745	R539-2	5YR	08/07/2014	2014-17/139
	38746	R539-3	5YR	08/07/2014	2014-17/139
	38891	R539-4	5YR	09/30/2014	2014-20/75

per diem allowances

Administrative Services, Finance	38175	R25-7	AMD	02/07/2014	2014-1/4
	38471	R25-7	AMD	06/23/2014	2014-10/4
	38742	R25-7-8	AMD	10/08/2014	2014-17/12

performance bonds

Administrative Services, Purchasing and General Services	38524	R33-11	R&R	07/08/2014	2014-11/64
	38699	R33-11	5YR	07/08/2014	2014-15/66

performance measurement

Health, Center for Health Data, Health Care Statistics	38566	R428-12	AMD	08/05/2014	2014-12/34
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permits

Environmental Quality, Air Quality	38491	R307-401-12	AMD	08/07/2014	2014-11/127
	37833	R307-401-19	AMD	01/06/2014	2013-15/29
	37833	R307-401-19	CPR	01/06/2014	2013-23/55
Natural Resources, Forestry, Fire and State Lands	38658	R652-70-2300	AMD	09/23/2014	2014-14/65
	38948	R652-120	5YR	11/11/2014	2014-23/57
Natural Resources, Wildlife Resources	38482	R657-45	AMD	07/08/2014	2014-11/163
	38427	R657-62	5YR	04/14/2014	2014-9/58
	38604	R657-62	AMD	08/11/2014	2014-13/115
Transportation, Motor Carrier	38619	R909-2	5YR	06/16/2014	2014-13/144

personal property

Tax Commission, Property Tax	38822	R884-24P-33	AMD	10/23/2014	2014-18/69
	38598	R884-24P-73	AMD	08/28/2014	2014-13/126

personnel management

Human Resource Management, Administration	38456	R477-1	AMD	07/01/2014	2014-10/57
	38469	R477-6	AMD	07/01/2014	2014-10/67
	38092	R477-6-9	AMD	01/14/2014	2013-22/125
	38460	R477-9	AMD	07/01/2014	2014-10/84
	38462	R477-14	AMD	07/01/2014	2014-10/88

petroleum

Environmental Quality, Environmental Response and Remediation	38765	R311-204-3	AMD	10/10/2014	2014-17/79
	38766	R311-206-11	AMD	10/10/2014	2014-17/80
	38767	R311-209-4	AMD	10/10/2014	2014-17/82
	38768	R311-212	AMD	10/10/2014	2014-17/84

pharmacies

Commerce, Occupational and Professional Licensing	38638	R156-17b	AMD	08/21/2014	2014-14/21
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pharmacists

Commerce, Occupational and Professional Licensing	38638	R156-17b	AMD	08/21/2014	2014-14/21
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physical therapist

Commerce, Occupational and Professional Licensing	38473	R156-24b	AMD	06/23/2014	2014-10/9
	38657	R156-24b-505	AMD	08/21/2014	2014-14/41

physical therapist assistant

Commerce, Occupational and Professional Licensing	38473	R156-24b	AMD	06/23/2014	2014-10/9
	38657	R156-24b-505	AMD	08/21/2014	2014-14/41

<u>physical therapy</u>						
Commerce, Occupational and Professional Licensing	38473	R156-24b	AMD	06/23/2014	2014-10/9	
	38657	R156-24b-505	AMD	08/21/2014	2014-14/41	
<u>physically impaired</u>						
Public Service Commission, Administration	38278	R746-343-15	AMD	05/01/2014	2014-5/51	
<u>physicians</u>						
Commerce, Occupational and Professional Licensing	38106	R156-67	AMD	01/07/2014	2013-23/5	
	38649	R156-67	AMD	08/21/2014	2014-14/46	
Health, Health Care Financing, Coverage and Reimbursement Policy	38369	R414-1B	5YR	03/18/2014	2014-8/39	
Public Safety, Driver License	38487	R708-7	NSC	05/29/2014	Not Printed	
<u>planning</u>						
Administrative Services, Facilities Construction and Management	38405	R23-3	5YR	04/03/2014	2014-9/49	
<u>plastic parts</u>						
Environmental Quality, Air Quality	38685	R307-353	AMD	12/01/2014	2014-15/39	
	38685	R307-353	CPR	12/01/2014	2014-21/75	
<u>pleas</u>						
Pardons (Board Of), Administration	38875	R671-514	AMD	11/24/2014	2014-20/62	
<u>plumbers</u>						
Commerce, Occupational and Professional Licensing	38731	R156-55c	AMD	10/09/2014	2014-17/33	
<u>plumbing</u>						
Commerce, Occupational and Professional Licensing	38731	R156-55c	AMD	10/09/2014	2014-17/33	
<u>PM10</u>						
Environmental Quality, Air Quality	38061	R307-110-17	AMD	01/09/2014	2013-21/8	
<u>PM2.5</u>						
Environmental Quality, Air Quality	38061	R307-110-17	AMD	01/09/2014	2013-21/8	
<u>pneumatic controllers</u>						
Environmental Quality, Air Quality	38580	R307-502	NEW	12/01/2014	2014-13/40	
	38580	R307-502	CPR	12/01/2014	2014-21/86	
<u>policies</u>						
Education, Administration	38777	R277-532-3	AMD	10/09/2014	2014-17/49	
<u>policy</u>						
Education, Administration	38301	R277-495	AMD	04/07/2014	2014-5/20	
<u>pollution</u>						
Environmental Quality, Water Quality	38387	R317-550	AMD	07/30/2014	2014-8/14	
<u>pools</u>						
Health, Disease Control and Prevention, Environmental Services	38089	R392-302	AMD	02/14/2014	2013-22/69	
<u>position classifications</u>						
Human Resource Management, Administration	38454	R477-3-4	AMD	07/01/2014	2014-10/63	
<u>post-retirement benefits</u>						
Education, Administration	38433	R277-118	NEW	06/09/2014	2014-9/11	
<u>postsecondary proprietary schools</u>						
Commerce, Consumer Protection	38880	R152-34	AMD	11/24/2014	2014-20/10	
<u>postsecondary schools</u>						
Commerce, Consumer Protection	38869	R152-34a	NEW	11/24/2014	2014-20/12	

RULES INDEX

<u>poverty</u>						
Education, Administration	38627	R277-710	NEW	08/07/2014	2014-13/33	
<u>preferences for resident contractors</u>						
Administrative Services, Purchasing and General Services	38509	R33-10	R&R	07/08/2014	2014-11/62	
	38698	R33-10	5YR	07/08/2014	2014-15/66	
<u>preferred provider organization</u>						
Health, Center for Health Data, Health Care Statistics	38566	R428-12	AMD	08/05/2014	2014-12/34	
<u>preneed funeral arrangements</u>						
Commerce, Occupational and Professional Licensing	38737	R156-9	AMD	10/09/2014	2014-17/25	
<u>prescription drug database</u>						
Health, Disease Control and Prevention, Health Promotion	38081	R384-203	NEW	03/01/2014	2013-22/68	
<u>preservation</u>						
Heritage and Arts, History	38932	R455-11	5YR	11/03/2014	2014-23/56	
<u>presumptive eligibility</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	38401	R414-303	AMD	06/01/2014	2014-8/27	
	38465	R414-303	AMD	07/01/2014	2014-10/51	
	38888	R414-303-9	AMD	12/01/2014	2014-20/56	
	38818	R414-303-11	AMD	11/01/2014	2014-18/16	
<u>primary care</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	38321	R414-310	AMD	04/21/2014	2014-6/32	
	38815	R414-310	EMR	09/01/2014	2014-18/83	
<u>primary health care</u>						
Health, Family Health and Preparedness, Primary Care and Rural Health	38637	R434-30	AMD	08/21/2014	2014-14/64	
<u>primers</u>						
Environmental Quality, Air Quality	38675	R307-342	AMD	12/01/2014	2014-15/11	
	38675	R307-342	CPR	12/01/2014	2014-21/50	
	38583	R307-342-3	AMD	09/04/2014	2014-13/37	
<u>prioritization</u>						
Administrative Services, Facilities Construction and Management	38247	R23-33	NEW	03/10/2014	2014-3/2	
<u>private security officers</u>						
Commerce, Occupational and Professional Licensing	38450	R156-63a	AMD	06/23/2014	2014-10/45	
	38886	R156-63a	AMD	11/24/2014	2014-20/14	
<u>procedures</u>						
Administrative Services, Facilities Construction and Management	38618	R23-22	R&R	08/07/2014	2014-13/13	
	38890	R23-22	AMD	11/21/2014	2014-20/6	
Capitol Preservation Board (State), Administration	38887	R131-16	NEW	11/21/2014	2014-20/9	
Public Service Commission, Administration	38363	R746-340	AMD	05/27/2014	2014-8/32	
	38556	R746-340-2	NSC	06/05/2014	Not Printed	
<u>procurement</u>						
Administrative Services, Facilities Construction and Management	38870	R23-2	5YR	09/16/2014	2014-20/73	
	38405	R23-3	5YR	04/03/2014	2014-9/49	
Administrative Services, Purchasing and General Services	38504	R33-5	R&R	07/08/2014	2014-11/32	
	38693	R33-5	5YR	07/08/2014	2014-15/63	
	38512	R33-14	NEW	07/08/2014	2014-11/83	

Capitol Preservation Board (State), Administration	38546	R131-4	EMR	05/21/2014	2014-12/49
	38557	R131-4	AMD	07/22/2014	2014-12/8
<u>Procurement Appeals Board</u>					
Administrative Services, Purchasing and General Services	38515	R33-17	NEW	07/08/2014	2014-11/87
<u>procurement code</u>					
Administrative Services, Purchasing and General Services	38518	R33-19	NEW	07/08/2014	2014-11/90
	38519	R33-20	NEW	07/08/2014	2014-11/91
	38521	R33-24	NEW	07/08/2014	2014-11/95
	38758	R33-24	AMD	10/08/2014	2014-17/18
<u>procurement methods</u>					
Administrative Services, Purchasing and General Services	38522	R33-25	NEW	07/08/2014	2014-11/97
<u>Procurement Policy Board</u>					
Administrative Services, Purchasing and General Services	38501	R33-2	R&R	07/08/2014	2014-11/6
	38690	R33-2	5YR	07/08/2014	2014-15/61
<u>procurement procedures</u>					
Administrative Services, Purchasing and General Services	38524	R33-11	R&R	07/08/2014	2014-11/64
	38699	R33-11	5YR	07/08/2014	2014-15/66
	38523	R33-26	NEW	07/08/2014	2014-11/98
<u>procurement professionals</u>					
Administrative Services, Purchasing and General Services	38521	R33-24	NEW	07/08/2014	2014-11/95
	38758	R33-24	AMD	10/08/2014	2014-17/18
<u>procurement units</u>					
Administrative Services, Purchasing and General Services	38520	R33-21	NEW	07/08/2014	2014-11/92
<u>professional competency</u>					
Education, Administration	38833	R277-502-3	NSC	09/19/2014	Not Printed
	38775	R277-502-5	AMD	10/09/2014	2014-17/45
	38867	R277-506	AMD	11/10/2014	2014-19/26
	38951	R277-506	5YR	11/13/2014	2014-23/56
<u>professional education</u>					
Education, Administration	38829	R277-504	5YR	09/02/2014	2014-18/89
	38866	R277-504	R&R	11/10/2014	2014-19/19
	38241	R277-518	AMD	03/10/2014	2014-3/8
<u>professional engineers</u>					
Commerce, Occupational and Professional Licensing	38279	R156-22	AMD	04/08/2014	2014-5/7
<u>professional land surveyors</u>					
Commerce, Occupational and Professional Licensing	38279	R156-22	AMD	04/08/2014	2014-5/7
<u>professional staff</u>					
Education, Administration	38348	R277-486	5YR	03/14/2014	2014-7/89
	38356	R277-486	NSC	04/01/2014	Not Printed
<u>professional structural engineers</u>					
Commerce, Occupational and Professional Licensing	38279	R156-22	AMD	04/08/2014	2014-5/7
<u>program benefits</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	38466	R414-306	AMD	07/01/2014	2014-10/53
	38129	R414-306-5	AMD	01/10/2014	2013-23/35

RULES INDEX

prohibited items and devices

Human Services, Substance Abuse and Mental Health 38297 R523-1 REP 04/07/2014 2014-5/27

promotions

Agriculture and Food, Marketing and Development 38843 R65-1 5YR 09/08/2014 2014-19/77
 38844 R65-3 5YR 09/08/2014 2014-19/77
 38845 R65-4 5YR 09/08/2014 2014-19/78
 38287 R65-12 NEW 04/16/2014 2014-5/5

property

Natural Resources, Parks and Recreation 38224 R651-700 5YR 01/06/2014 2014-3/52

property casualty insurance filings

Insurance, Administration 38309 R590-225 5YR 02/20/2014 2014-6/76

property tax

Auditor, Administration 38721 R123-6 NEW 11/28/2014 2014-16/4
 Tax Commission, Property Tax 38822 R884-24P-33 AMD 10/23/2014 2014-18/69
 38598 R884-24P-73 AMD 08/28/2014 2014-13/126

protection

Commerce, Consumer Protection 38266 R152-21 5YR 01/29/2014 2014-4/67

protests

Administrative Services, Purchasing and General Services 38514 R33-16 NEW 07/08/2014 2014-11/86
 38516 R33-18 NEW 07/08/2014 2014-11/89
 38518 R33-19 NEW 07/08/2014 2014-11/90

PSD

Environmental Quality, Air Quality 38260 R307-405 5YR 01/28/2014 2014-4/70

psychologists

Commerce, Occupational and Professional Licensing 38233 R156-61 5YR 01/13/2014 2014-3/49

public assistance

Public Service Commission, Administration 38278 R746-343-15 AMD 05/01/2014 2014-5/51
 Workforce Services, Employment Development 38663 R986-900-902 AMD 10/01/2014 2014-14/75
 38750 R986-900-902 AMD 11/06/2014 2014-17/125

public assistance overpayments

Human Services, Recovery Services 38836 R527-40 5YR 09/03/2014 2014-19/81

public assistance programs

Health, Health Care Financing, Coverage and Reimbursement Policy 38889 R414-308-6 AMD 12/01/2014 2014-20/57

public buildings

Administrative Services, Facilities Construction and Management 38405 R23-3 5YR 04/03/2014 2014-9/49
 Capitol Preservation Board (State), Administration 38617 R23-19 AMD 08/07/2014 2014-13/8
 38546 R131-4 EMR 05/21/2014 2014-12/49
 38557 R131-4 AMD 07/22/2014 2014-12/8

public education

Education, Administration 38409 R277-105 5YR 04/04/2014 2014-9/51
 38432 R277-105 AMD 06/09/2014 2014-9/8
 38185 R277-437 AMD 02/07/2014 2014-1/12
 38347 R277-438 5YR 03/14/2014 2014-7/89
 38591 R277-462 5YR 06/10/2014 2014-13/137
 38621 R277-462 AMD 08/07/2014 2014-13/20
 38593 R277-714 5YR 06/10/2014 2014-13/140
 38352 R277-735 5YR 03/14/2014 2014-7/91
 38360 R277-735 AMD 05/08/2014 2014-7/11

<u>public funds</u>					
Education, Administration	38772	R277-113-4	AMD	10/09/2014	2014-17/39
Money Management Council, Administration	38281	R628-19	5YR	02/10/2014	2014-5/63
	38179	R628-20	NEW	02/18/2014	2014-1/41
	38180	R628-21	NEW	04/15/2014	2014-1/42
	38180	R628-21	CPR	04/15/2014	2014-6/70
<u>public health</u>					
Health, Disease Control and Prevention, Environmental Services	38229	R392-101	5YR	01/10/2014	2014-3/49
	38656	R392-104	NEW	09/12/2014	2014-14/53
	38177	R392-200-4	AMD	02/19/2014	2014-1/24
<u>public health emergency</u>					
Health, Disease Control and Prevention, Epidemiology	38662	R386-80	NEW	10/24/2014	2014-14/51
<u>public information</u>					
Administrative Services, Administration	38570	R13-2	5YR	06/02/2014	2014-12/53
	38569	R13-2	AMD	07/22/2014	2014-12/6
Human Resource Management, Administration	38457	R477-2-3	AMD	07/01/2014	2014-10/62
<u>public records</u>					
Attorney General, Administration	38245	R105-2	NSC	01/30/2014	Not Printed
	38749	R105-2	NSC	08/28/2014	Not Printed
Environmental Quality, Administration	38244	R305-1	NSC	01/30/2014	Not Printed
Natural Resources, Parks and Recreation	38343	R651-102	NSC	04/01/2014	Not Printed
<u>public sales</u>					
Administrative Services, Purchasing and General Services	38523	R33-26	NEW	07/08/2014	2014-11/98
<u>public schools</u>					
Education, Administration	38434	R277-410-5	AMD	06/09/2014	2014-9/13
	38590	R277-463	5YR	06/10/2014	2014-13/138
	38622	R277-463	AMD	08/07/2014	2014-13/24
	38780	R277-620	AMD	10/09/2014	2014-17/53
	38627	R277-710	NEW	08/07/2014	2014-13/33
	38412	R277-916	5YR	04/04/2014	2014-9/53
<u>public utilities</u>					
Public Service Commission, Administration	38644	R746-200-7	AMD	08/22/2014	2014-14/67
<u>pump installers</u>					
Natural Resources, Water Rights	38722	R655-4	5YR	08/01/2014	2014-16/60
<u>pupil-teacher ratio reporting</u>					
Education, Administration	38590	R277-463	5YR	06/10/2014	2014-13/138
	38622	R277-463	AMD	08/07/2014	2014-13/24
<u>qualified depository</u>					
Money Management Council, Administration	38180	R628-21	NEW	04/15/2014	2014-1/42
	38180	R628-21	CPR	04/15/2014	2014-6/70
<u>quality control</u>					
Agriculture and Food, Regulatory Services	38813	R70-101-7	AMD	10/22/2014	2014-18/4
<u>rabbits</u>					
Natural Resources, Wildlife Resources	38600	R657-6	AMD	08/11/2014	2014-13/102
<u>radiation</u>					
Environmental Quality, Radiation Control	38082	R313-25	AMD	04/03/2014	2013-22/49
	38082	R313-25	CPR	04/03/2014	2014-4/53
	38755	R313-25-2	AMD	10/21/2014	2014-17/99
<u>radioactive materials</u>					
Environmental Quality, Radiation Control	38754	R313-22-33	AMD	10/21/2014	2014-17/97

RULES INDEX

	38145	R313-22-34	AMD	02/14/2014	2013-23/19
	38147	R313-38-3	AMD	04/07/2014	2013-23/20
	38147	R313-38-3	CPR	04/07/2014	2014-5/56
	38751	R313-70	AMD	10/21/2014	2014-17/104
	38146	R313-70-5	AMD	02/18/2014	2013-23/22
<u>radioactive waste disposal</u>					
Environmental Quality, Radiation Control	38082	R313-25	AMD	04/03/2014	2013-22/49
	38082	R313-25	CPR	04/03/2014	2014-4/53
	38755	R313-25-2	AMD	10/21/2014	2014-17/99
<u>rates</u>					
Labor Commission, Industrial Accidents	38803	R612-400-1	AMD	10/22/2014	2014-18/55
	38804	R612-400-2	AMD	10/22/2014	2014-18/56
	38808	R612-400-3	AMD	10/22/2014	2014-18/58
	38807	R612-400-4	AMD	10/22/2014	2014-18/63
Public Service Commission, Administration	38278	R746-343-15	AMD	05/01/2014	2014-5/51
<u>readiness</u>					
Education, Administration	38774	R277-402	NEW	10/09/2014	2014-17/44
<u>real estate appraisals</u>					
Commerce, Real Estate	38270	R162-2g	AMD	03/31/2014	2014-4/16
	38389	R162-2g	AMD	05/22/2014	2014-8/8
<u>real estate business</u>					
Commerce, Real Estate	38213	R162-2f	AMD	02/25/2014	2014-2/4
<u>real property</u>					
Administrative Services, Facilities Construction and Management	38618	R23-22	R&R	08/07/2014	2014-13/13
	38890	R23-22	AMD	11/21/2014	2014-20/6
<u>reciprocal deposits</u>					
Money Management Council, Administration	38180	R628-21	NEW	04/15/2014	2014-1/42
	38180	R628-21	CPR	04/15/2014	2014-6/70
<u>reciprocal preferences</u>					
Administrative Services, Purchasing and General Services	38509	R33-10	R&R	07/08/2014	2014-11/62
	38698	R33-10	5YR	07/08/2014	2014-15/66
<u>reclamation</u>					
Natural Resources, Oil, Gas and Mining; Coal	38738	R645-105	5YR	08/05/2014	2014-17/140
	38740	R645-106	5YR	08/05/2014	2014-17/141
	38739	R645-400	5YR	08/05/2014	2014-17/141
<u>records</u>					
Administrative Services, Purchasing and General Services	38519	R33-20	NEW	07/08/2014	2014-11/91
Education, Administration	38955	R277-487	5YR	11/14/2014	2014-23/55
Health, Disease Control and Prevention, Medical Examiner	38420	R448-20	5YR	04/07/2014	2014-9/55
<u>records access</u>					
Attorney General, Administration	38245	R105-2	NSC	01/30/2014	Not Printed
	38749	R105-2	NSC	08/28/2014	Not Printed
<u>records appeal hearings</u>					
Administrative Services, Records Committee	38572	R35-1	5YR	06/03/2014	2014-13/133
	38640	R35-1	AMD	09/09/2014	2014-14/5
	38573	R35-1a	5YR	06/03/2014	2014-13/134
	38641	R35-1a	AMD	09/09/2014	2014-14/7
	38574	R35-2	5YR	06/03/2014	2014-13/135
	38642	R35-2	AMD	09/16/2014	2014-14/8
	38575	R35-3	5YR	06/03/2014	2014-13/135
	38647	R35-3	REP	09/16/2014	2014-14/10

	38576	R35-4	5YR	06/03/2014	2014-13/136
	38643	R35-4	AMD	09/16/2014	2014-14/11
	38577	R35-5	5YR	06/03/2014	2014-13/136
	38645	R35-5	AMD	09/16/2014	2014-14/12
	38578	R35-6	5YR	06/03/2014	2014-13/137
	38646	R35-6	AMD	09/16/2014	2014-14/13
<u>recreation</u>					
Natural Resources, Wildlife Resources	38170	R657-38	AMD	02/10/2014	2014-1/61
<u>recreation therapy</u>					
Commerce, Occupational and Professional Licensing	38517	R156-40	AMD	07/08/2014	2014-11/105
<u>recreational therapy</u>					
Commerce, Occupational and Professional Licensing	38517	R156-40	AMD	07/08/2014	2014-11/105
<u>registration</u>					
Commerce, Consumer Protection	38880	R152-34	AMD	11/24/2014	2014-20/10
Environmental Quality, Radiation Control	38751	R313-70	AMD	10/21/2014	2014-17/104
	38146	R313-70-5	AMD	02/18/2014	2013-23/22
<u>rehabilitation</u>					
Education, Rehabilitation	38353	R280-202	5YR	03/14/2014	2014-7/91
	38361	R280-202	AMD	05/08/2014	2014-7/14
	38540	R280-202-3	NSC	05/29/2014	Not Printed
Heritage and Arts, History	38932	R455-11	5YR	11/03/2014	2014-23/56
<u>reimbursement</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	38528	R414-9	AMD	07/11/2014	2014-11/150
<u>reimbursements</u>					
Public Safety, Emergency Management	38701	R704-2	AMD	09/29/2014	2014-15/54
<u>rejections</u>					
Administrative Services, Purchasing and General Services	38508	R33-9	R&R	07/08/2014	2014-11/59
	38697	R33-9	5YR	07/08/2014	2014-15/65
<u>religious activities</u>					
Tax Commission, Auditing	38237	R865-19S-30	NSC	01/30/2014	Not Printed
	38596	R865-19S-54	AMD	08/28/2014	2014-13/124
	38597	R865-19S-83	AMD	08/28/2014	2014-13/125
<u>renewable</u>					
Governor, Energy Development (Office of)	38163	R362-2	AMD	01/22/2014	2013-24/23
<u>renewal license</u>					
Public Safety, Driver License	38941	R708-45	5YR	11/07/2014	2014-23/57
<u>renewals</u>					
Environmental Quality, Water Quality	38531	R317-10	AMD	08/27/2014	2014-11/143
<u>replacement providers</u>					
Public Service Commission, Administration	38234	R746-350	5YR	01/13/2014	2014-3/52
<u>reporting</u>					
Health, Family Health and Preparedness, Children with Special Health Care Needs	38339	R398-10	5YR	03/12/2014	2014-7/92
	38340	R398-10	NSC	04/01/2014	Not Printed
<u>reporting deaths</u>					
Health, Disease Control and Prevention, Medical Examiner	38419	R448-10	5YR	04/07/2014	2014-9/55

RULES INDEX

reporting requirements and procedures

Health, Disease Control and Prevention, Health Promotion 38367 R384-100 5YR 03/18/2014 2014-8/38

reports

Environmental Quality, Air Quality 38261 R307-150 5YR 01/28/2014 2014-4/70

repository

Technology Services, Administration 38933 R895-9 5YR 11/04/2014 2014-23/59

representation

Pardons (Board Of), Administration 38713 R671-103-1 AMD 09/29/2014 2014-16/26

request for information

Administrative Services, Purchasing and General Services 38504 R33-5 R&R 07/08/2014 2014-11/32

38693 R33-5 5YR 07/08/2014 2014-15/63

request for proposals

Administrative Services, Purchasing and General Services 38506 R33-7 R&R 07/08/2014 2014-11/49

38695 R33-7 5YR 07/08/2014 2014-15/64

38759 R33-7-201 AMD 10/08/2014 2014-17/15

38757 R33-7-601 AMD 10/08/2014 2014-17/16

requirements

Education, Administration 38776 R277-531 AMD 10/09/2014 2014-17/46

reserved

Administrative Services, Purchasing and General Services 38526 R33-22 NEW 07/08/2014 2014-11/94

38527 R33-23 NEW 07/08/2014 2014-11/95

residency requirements

Workforce Services, Administration 38715 R982-402 AMD 10/01/2014 2014-16/34

resources

Health, Health Care Financing, Coverage and Reimbursement Policy 38725 R414-305 AMD 10/01/2014 2014-16/20

restricted

Transportation, Program Development 38919 R926-12 5YR 10/22/2014 2014-22/42

retirement

Public Safety, Peace Officer Standards and Training 38940 R728-205 5YR 11/07/2014 2014-23/58

reverse auction

Administrative Services, Purchasing and General Services 38505 R33-6 R&R 07/08/2014 2014-11/43

38694 R33-6 5YR 07/08/2014 2014-15/64

38756 R33-6-103 AMD 10/08/2014 2014-17/13

revocation procedures

Environmental Quality, Environmental Response and Remediation 38764 R311-201-12 AMD 10/10/2014 2014-17/76

revolving account

Education, Administration 38588 R277-480 5YR 06/10/2014 2014-13/139

38625 R277-480-4 AMD 08/07/2014 2014-13/30

RFPs

Education, Administration 38295 R277-117 5YR 02/13/2014 2014-5/59

38299 R277-117 AMD 04/07/2014 2014-5/16

rights

Human Services, Services for People with Disabilities 38746 R539-3 5YR 08/07/2014 2014-17/139

<u>risk adjustment program</u>						
Insurance, Administration	38534	R590-270	NEW	09/22/2014	2014-11/158	
<u>risk management</u>						
Administrative Services, Risk Management	38250	R37-4	AMD	04/30/2014	2014-4/4	
<u>rules</u>						
Public Service Commission, Administration	38644	R746-200-7	AMD	08/22/2014	2014-14/67	
<u>rules and procedures</u>						
Education, Administration	38408	R277-102	5YR	04/04/2014	2014-9/51	
Education, Rehabilitation	38538	R280-150	5YR	05/15/2014	2014-11/172	
	38539	R280-150	AMD	07/08/2014	2014-11/117	
Human Resource Management, Administration	38456	R477-1	AMD	07/01/2014	2014-10/57	
Natural Resources, Wildlife Resources	38230	R657-27	AMD	03/11/2014	2014-3/26	
Public Service Commission, Administration	38198	R746-341	AMD	02/24/2014	2014-2/9	
	38545	R746-341	AMD	08/06/2014	2014-12/44	
	38826	R746-341	AMD	11/05/2014	2014-18/65	
<u>rules of procedure</u>						
Administrative Services, Purchasing and General Services	38501	R33-2	R&R	07/08/2014	2014-11/6	
	38690	R33-2	5YR	07/08/2014	2014-15/61	
<u>rural businesses</u>						
Governor, Economic Development	38860	R357-2	NEW	11/08/2014	2014-19/46	
<u>safety</u>						
Education, Administration	38296	R277-400	5YR	02/13/2014	2014-5/59	
	38300	R277-400	AMD	04/07/2014	2014-5/17	
	38773	R277-400	AMD	10/09/2014	2014-17/41	
	38426	R277-400-5	NSC	04/29/2014	Not Printed	
Labor Commission, Boiler and Elevator Safety	38226	R616-2-3	AMD	03/10/2014	2014-3/22	
	38378	R616-3-3	AMD	05/22/2014	2014-8/31	
Transportation, Motor Carrier	38215	R909-3	5YR	01/02/2014	2014-3/55	
<u>safety education</u>						
Education, Administration	38296	R277-400	5YR	02/13/2014	2014-5/59	
	38300	R277-400	AMD	04/07/2014	2014-5/17	
	38773	R277-400	AMD	10/09/2014	2014-17/41	
	38426	R277-400-5	NSC	04/29/2014	Not Printed	
<u>safety regulations</u>						
Transportation, Motor Carrier	38619	R909-2	5YR	06/16/2014	2014-13/144	
	38449	R909-19	AMD	07/08/2014	2014-10/102	
<u>salaries</u>						
Human Resource Management, Administration	38092	R477-6-9	AMD	01/14/2014	2013-22/125	
<u>sales tax</u>						
Tax Commission, Auditing	38237	R865-19S-30	NSC	01/30/2014	Not Printed	
	38596	R865-19S-54	AMD	08/28/2014	2014-13/124	
	38597	R865-19S-83	AMD	08/28/2014	2014-13/125	
<u>scholarships</u>						
Education, Administration	38302	R277-526	AMD	04/07/2014	2014-5/23	
	38626	R277-602-3	AMD	08/07/2014	2014-13/32	
Health, Family Health and Preparedness, Primary Care and Rural Health	38305	R434-40	NEW	05/08/2014	2014-6/53	
Public Education Job Enhancement Program, Job Enhancement Committee	38243	R690-100	REP	03/10/2014	2014-3/37	
Regents (Board Of), Administration	38820	R765-604	5YR	08/26/2014	2014-18/98	
<u>school</u>						
Education, Administration	38410	R277-601	5YR	04/04/2014	2014-9/52	

RULES INDEX

school buses

Education, Administration	38436	R277-601-3	AMD	06/09/2014	2014-9/17
Transportation, Motor Carrier	38215	R909-3	5YR	01/02/2014	2014-3/55

school certification

Commerce, Real Estate	38270	R162-2g	AMD	03/31/2014	2014-4/16
	38389	R162-2g	AMD	05/22/2014	2014-8/8

school community councils

Education, Administration	38542	R277-491	AMD	07/08/2014	2014-11/113
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school employees

Education, Administration	38594	R277-516	5YR	06/10/2014	2014-13/139
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school enrollment

Education, Administration	38585	R277-419-9	EMR	06/09/2014	2014-13/129
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school reports

Education, Administration	38111	R277-497	AMD	01/08/2014	2013-23/8
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school sponsored activities

Education, Administration	38772	R277-113-4	AMD	10/09/2014	2014-17/39
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school transportation

Education, Administration	38410	R277-601	5YR	04/04/2014	2014-9/52
	38436	R277-601-3	AMD	06/09/2014	2014-9/17

schools

Education, Administration	38774	R277-402	NEW	10/09/2014	2014-17/44
	38541	R277-477	AMD	07/08/2014	2014-11/109
	38326	R277-477-3	NSC	04/01/2014	Not Printed
	38628	R277-719	AMD	08/07/2014	2014-13/35
Health, Disease Control and Prevention, Environmental Services	38177	R392-200-4	AMD	02/19/2014	2014-1/24

scoring

Administrative Services, Facilities Construction and Management	38247	R23-33	NEW	03/10/2014	2014-3/2
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sealants

Environmental Quality, Air Quality	38675	R307-342	AMD	12/01/2014	2014-15/11
	38675	R307-342	CPR	12/01/2014	2014-21/50
	38583	R307-342-3	AMD	09/04/2014	2014-13/37

sealed bidding

Administrative Services, Purchasing and General Services	38505	R33-6	R&R	07/08/2014	2014-11/43
	38694	R33-6	5YR	07/08/2014	2014-15/64
	38756	R33-6-103	AMD	10/08/2014	2014-17/13

search and rescue

Public Safety, Emergency Management	38688	R704-1	5YR	07/07/2014	2014-15/68
	38704	R704-1	R&R	09/29/2014	2014-16/27

secondary education

Regents (Board Of), Administration	38820	R765-604	5YR	08/26/2014	2014-18/98
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secondhand merchandise dealers

Commerce, Consumer Protection	38763	R152-32a-2	AMD	10/16/2014	2014-17/23
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securities

Money Management Council, Administration	38281	R628-19	5YR	02/10/2014	2014-5/63
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security guards

Commerce, Occupational and Professional Licensing	38450	R156-63a	AMD	06/23/2014	2014-10/45
	38886	R156-63a	AMD	11/24/2014	2014-20/14
	38474	R156-63b	AMD	06/23/2014	2014-10/48

<u>self reporting</u>						
Education, Administration	38594	R277-516	5YR	06/10/2014	2014-13/139	
<u>self-administered services</u>						
Human Services, Services for People with Disabilities	38892	R539-5	5YR	09/30/2014	2014-20/75	
<u>self-employment income</u>						
Workforce Services, Administration	38716	R982-403	AMD	10/01/2014	2014-16/37	
<u>selling</u>						
Administrative Services, Facilities Construction and Management	38618	R23-22	R&R	08/07/2014	2014-13/13	
	38890	R23-22	AMD	11/21/2014	2014-20/6	
<u>seminars</u>						
Education, Administration	38780	R277-620	AMD	10/09/2014	2014-17/53	
<u>senior-specific insurance designations</u>						
Insurance, Administration	38282	R590-252	5YR	02/11/2014	2014-5/62	
<u>services</u>						
Human Services, Services for People with Disabilities	38745	R539-2	5YR	08/07/2014	2014-17/139	
Public Service Commission, Administration	38234	R746-350	5YR	01/13/2014	2014-3/52	
<u>settlements</u>						
Labor Commission, Adjudication	38306	R602-2	AMD	04/22/2014	2014-6/61	
	38554	R602-2-4	AMD	07/22/2014	2014-12/41	
	38193	R602-2-5	AMD	02/21/2014	2014-2/7	
	38327	R602-7	5YR	03/05/2014	2014-7/94	
	38328	R602-8	5YR	03/05/2014	2014-7/94	
<u>sewerage</u>						
Environmental Quality, Water Quality	38271	R317-5	R&R	03/26/2014	2014-4/26	
<u>share the road</u>						
Transportation, Program Development	38919	R926-12	5YR	10/22/2014	2014-22/42	
<u>sharing</u>						
Education, Administration	38962	R277-111	EXT	11/19/2014	Not Printed	
<u>shooting range</u>						
Regents (Board Of), University of Utah, Administration	38018	R805-6	NEW	02/11/2014	2013-20/46	
<u>single event permits</u>						
Alcoholic Beverage Control, Administration	38275	R81-7	AMD	03/25/2014	2014-4/11	
<u>SLCC</u>						
Regents (Board Of), Salt Lake Community College	38362	R784-1	5YR	03/17/2014	2014-8/50	
<u>small employer stop-loss</u>						
Insurance, Administration	38087	R590-268	NEW	03/13/2014	2013-22/142	
	38087	R590-268	CPR	03/13/2014	2014-3/45	
<u>small purchases</u>						
Administrative Services, Purchasing and General Services	38503	R33-4	R&R	07/08/2014	2014-11/28	
	38692	R33-4	5YR	07/08/2014	2014-15/62	
<u>social workers</u>						
Commerce, Occupational and Professional Licensing	38730	R156-60a	5YR	08/04/2014	2014-17/135	
<u>solar</u>						
Governor, Energy Development (Office of)	38163	R362-2	AMD	01/22/2014	2013-24/23	

RULES INDEX

<u>solid fuel burning</u>						
Environmental Quality, Air Quality	38166	R307-302	AMD	03/06/2014	2014-1/20	
<u>solvent cleaning</u>						
Environmental Quality, Air Quality	37829	R307-335	AMD	06/02/2014	2013-15/23	
	37829	R307-335	CPR	06/02/2014	2013-23/54	
	37829	R307-335	CPR	06/02/2014	2014-7/85	
	37829	R307-335	CPR	06/02/2014	2014-9/46	
	38674	R307-335	AMD	12/01/2014	2014-15/8	
	38674	R307-335	CPR	12/01/2014	2014-21/48	
<u>source development</u>						
Environmental Quality, Drinking Water	38012	R309-515	AMD	01/21/2014	2013-19/51	
<u>source maintenance</u>						
Environmental Quality, Drinking Water	38012	R309-515	AMD	01/21/2014	2013-19/51	
<u>sovereign lands</u>						
Natural Resources, Forestry, Fire and State Lands	38658	R652-70-2300	AMD	09/23/2014	2014-14/65	
<u>space heaters</u>						
Administrative Services, Facilities Construction and Management	38617	R23-19	AMD	08/07/2014	2014-13/8	
<u>spas</u>						
Health, Disease Control and Prevention, Environmental Services	38089	R392-302	AMD	02/14/2014	2013-22/69	
<u>special educators</u>						
Education, Administration	38114	R277-525	AMD	01/08/2014	2013-23/9	
<u>special needs students</u>						
Education, Administration	38626	R277-602-3	AMD	08/07/2014	2014-13/32	
<u>specific licenses</u>						
Environmental Quality, Radiation Control	38754	R313-22-33	AMD	10/21/2014	2014-17/97	
	38145	R313-22-34	AMD	02/14/2014	2013-23/19	
<u>specifications</u>						
Administrative Services, Purchasing and General Services	38503	R33-4	R&R	07/08/2014	2014-11/28	
	38692	R33-4	5YR	07/08/2014	2014-15/62	
<u>speech-language pathology services</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	38227	R414-54	5YR	01/07/2014	2014-3/50	
	38613	R414-54	AMD	08/26/2014	2014-13/94	
<u>sportsmen</u>						
Natural Resources, Wildlife Resources	38171	R657-41	AMD	02/10/2014	2014-1/68	
<u>stack height</u>						
Environmental Quality, Air Quality	38489	R307-410-2	AMD	08/07/2014	2014-11/128	
	38490	R307-410-6	AMD	08/07/2014	2014-11/129	
<u>standard procurement process</u>						
Administrative Services, Purchasing and General Services	38506	R33-7	R&R	07/08/2014	2014-11/49	
	38695	R33-7	5YR	07/08/2014	2014-15/64	
	38759	R33-7-201	AMD	10/08/2014	2014-17/15	
	38757	R33-7-601	AMD	10/08/2014	2014-17/16	
<u>standards</u>						
Health, Administration	38256	R380-70	5YR	01/24/2014	2014-4/71	
<u>State Board of Education</u>						
Education, Administration	38357	R277-119	NEW	05/08/2014	2014-7/7	

<u>state contracts</u>						
Administrative Services, Facilities Construction and Management	38615	R23-23	AMD	08/07/2014	2014-13/18	
Administrative Services, Purchasing and General Services	38511	R33-13	NEW	07/08/2014	2014-11/79	
	38520	R33-21	NEW	07/08/2014	2014-11/92	
<u>state custody</u>						
Human Services, Administration	38280	R495-882	5YR	02/10/2014	2014-5/61	
<u>state emergency response commission</u>						
Public Safety, Administration	38762	R698-5	5YR	08/14/2014	2014-17/142	
<u>state employees</u>						
Administrative Services, Finance	38175	R25-7	AMD	02/07/2014	2014-1/4	
	38471	R25-7	AMD	06/23/2014	2014-10/4	
	38742	R25-7-8	AMD	10/08/2014	2014-17/12	
	38653	R25-10	5YR	06/25/2014	2014-14/79	
<u>state flag</u>						
Lieutenant Governor, Administration	38379	R622-2	5YR	03/24/2014	2014-8/46	
<u>state HEAT office records</u>						
Workforce Services, Administration	38718	R982-407	AMD	10/01/2014	2014-16/41	
<u>state plan</u>						
Lieutenant Governor, Elections	38385	R623-3	5YR	03/26/2014	2014-8/48	
<u>state products</u>						
Administrative Services, Purchasing and General Services	38509	R33-10	R&R	07/08/2014	2014-11/62	
	38698	R33-10	5YR	07/08/2014	2014-15/66	
<u>state records committee</u>						
Administrative Services, Records Committee	38572	R35-1	5YR	06/03/2014	2014-13/133	
	38640	R35-1	AMD	09/09/2014	2014-14/5	
	38573	R35-1a	5YR	06/03/2014	2014-13/134	
	38641	R35-1a	AMD	09/09/2014	2014-14/7	
	38574	R35-2	5YR	06/03/2014	2014-13/135	
	38642	R35-2	AMD	09/16/2014	2014-14/8	
	38575	R35-3	5YR	06/03/2014	2014-13/135	
	38647	R35-3	REP	09/16/2014	2014-14/10	
	38643	R35-4	AMD	09/16/2014	2014-14/11	
	38577	R35-5	5YR	06/03/2014	2014-13/136	
	38645	R35-5	AMD	09/16/2014	2014-14/12	
	38578	R35-6	5YR	06/03/2014	2014-13/137	
	38646	R35-6	AMD	09/16/2014	2014-14/13	
<u>state records committee order</u>						
Administrative Services, Records Committee	38576	R35-4	5YR	06/03/2014	2014-13/136	
<u>state surplus property</u>						
Administrative Services, Purchasing and General Services	38523	R33-26	NEW	07/08/2014	2014-11/98	
<u>Statewide Mutual Aid Act</u>						
Public Safety, Emergency Management	38701	R704-2	AMD	09/29/2014	2014-15/54	
<u>stationary sources</u>						
Environmental Quality, Air Quality	38104	R307-210-2	AMD	03/06/2014	2013-23/17	
<u>stewardships</u>						
Agriculture and Food, Conservation Commission	38071	R64-3	NEW	05/08/2014	2013-22/15	
	38071	R64-3	CPR	05/08/2014	2014-7/82	

RULES INDEX

<u>stipends</u>						
Education, Administration	38114	R277-525	AMD	01/08/2014	2013-23/9	
<u>storage tanks</u>						
Environmental Quality, Drinking Water	38535	R309-545	AMD	11/10/2014	2014-11/130	
	38535	R309-545	CPR	11/10/2014	2014-16/48	
<u>stoves</u>						
Environmental Quality, Air Quality	38166	R307-302	AMD	03/06/2014	2014-1/20	
<u>stream alterations</u>						
Natural Resources, Water Rights	38267	R655-13	5YR	01/29/2014	2014-4/73	
<u>student achievements</u>						
Education, Administration	38863	R277-404	AMD	11/10/2014	2014-19/5	
<u>students</u>						
Education, Administration	38589	R277-472	5YR	06/10/2014	2014-13/138	
	38624	R277-472	AMD	08/07/2014	2014-13/28	
	38955	R277-487	5YR	11/14/2014	2014-23/55	
	38779	R277-619	AMD	10/09/2014	2014-17/52	
	38116	R277-709	AMD	01/14/2014	2013-23/13	
	38834	R277-709-1	NSC	09/19/2014	Not Printed	
	38359	R277-709-11	AMD	05/08/2014	2014-7/10	
	38852	R277-713	NSC	09/30/2014	Not Printed	
<u>students at risk</u>						
Education, Administration	38851	R277-708	NSC	09/30/2014	Not Printed	
<u>substance abuse database</u>						
Health, Disease Control and Prevention, Health Promotion	38081	R384-203	NEW	03/01/2014	2013-22/68	
<u>subsurface tracer studies</u>						
Environmental Quality, Radiation Control	38147	R313-38-3	AMD	04/07/2014	2013-23/20	
	38147	R313-38-3	CPR	04/07/2014	2014-5/56	
<u>suicide prevention programs</u>						
Education, Administration	38780	R277-620	AMD	10/09/2014	2014-17/53	
<u>supervision</u>						
Commerce, Occupational and Professional Licensing	38659	R156-1	AMD	08/21/2014	2014-14/14	
	38157	R156-1-501	AMD	01/21/2014	2013-24/6	
	38253	R156-1-501	NSC	01/31/2014	Not Printed	
<u>surface coating</u>						
Environmental Quality, Air Quality	38679	R307-346	AMD	12/01/2014	2014-15/23	
	38679	R307-346	CPR	12/01/2014	2014-21/63	
	38680	R307-347	AMD	12/01/2014	2014-15/26	
	38680	R307-347	CPR	12/01/2014	2014-21/65	
	38681	R307-348	AMD	10/07/2014	2014-15/28	
<u>surplus</u>						
Administrative Services, Facilities Construction and Management	38618	R23-22	R&R	08/07/2014	2014-13/13	
	38890	R23-22	AMD	11/21/2014	2014-20/6	
<u>surveys</u>						
Environmental Quality, Radiation Control	38147	R313-38-3	AMD	04/07/2014	2013-23/20	
	38147	R313-38-3	CPR	04/07/2014	2014-5/56	
Judicial Performance Evaluation Commission, Administration	38304	R597-3	5YR	02/17/2014	2014-6/77	
	38438	R597-3	AMD	06/12/2014	2014-9/30	
	38595	R597-3	AMD	08/08/2014	2014-13/97	
<u>tax credits</u>						
Governor, Economic Development	38860	R357-2	NEW	11/08/2014	2014-19/46	

Governor, Energy Development (Office of) Heritage and Arts, History	38163 38932	R362-2 R455-11	AMD 5YR	01/22/2014 11/03/2014	2013-24/23 2014-23/56
<u>tax exemptions</u>					
Environmental Quality, Water Quality Tax Commission, Auditing	38661 38237 38596 38597	R317-12 R865-19S-30 R865-19S-54 R865-19S-83	R&R NSC AMD AMD	08/27/2014 01/30/2014 08/28/2014 08/28/2014	2014-14/48 Not Printed 2014-13/124 2014-13/125
<u>taxation</u>					
Tax Commission, Auditing	38223 38222	R865-7H R865-16R	5YR 5YR	01/06/2014 01/06/2014	2014-3/53 2014-3/54
Tax Commission, Property Tax	38822 38598	R884-24P-33 R884-24P-73	AMD AMD	10/23/2014 08/28/2014	2014-18/69 2014-13/126
<u>teacher licensing</u>					
Education, Administration	38866	R277-504	R&R	11/10/2014	2014-19/19
<u>teachers</u>					
Education, Administration	38240 38435 38829	R277-503 R277-503-4 R277-504	AMD AMD 5YR	03/10/2014 06/09/2014 09/02/2014	2014-3/4 2014-9/14 2014-18/89
<u>technology best practices</u>					
Technology Services, Administration	38933	R895-9	5YR	11/04/2014	2014-23/59
<u>telecommunications</u>					
Public Service Commission, Administration	38363 38556 38198 38545 38826 38278 38234	R746-340 R746-340-2 R746-341 R746-341 R746-341 R746-343-15 R746-350	AMD NSC AMD AMD AMD AMD 5YR	05/27/2014 06/05/2014 02/24/2014 08/06/2014 11/05/2014 05/01/2014 01/13/2014	2014-8/32 Not Printed 2014-2/9 2014-12/44 2014-18/65 2014-5/51 2014-3/52
<u>telecommuting</u>					
Human Resource Management, Administration	38459	R477-8	AMD	07/01/2014	2014-10/80
<u>telephone utility regulations</u>					
Public Service Commission, Administration	38363 38556	R746-340 R746-340-2	AMD NSC	05/27/2014 06/05/2014	2014-8/32 Not Printed
<u>telephones</u>					
Commerce, Consumer Protection Public Service Commission, Administration	38125 38198 38545 38826	R152-26 R746-341 R746-341 R746-341	AMD AMD AMD AMD	01/07/2014 02/24/2014 08/06/2014 11/05/2014	2013-23/4 2014-2/9 2014-12/44 2014-18/65
<u>temporary beer event permits</u>					
Alcoholic Beverage Control, Administration	38276	R81-10b	AMD	03/25/2014	2014-4/14
<u>terms and conditions</u>					
Administrative Services, Purchasing and General Services	38510 38700	R33-12 R33-12	R&R 5YR	07/08/2014 07/08/2014	2014-11/71 2014-15/67
<u>therapists</u>					
Commerce, Occupational and Professional Licensing	38421 38390 38734	R156-60 R156-60-102 R156-60b	5YR AMD 5YR	04/08/2014 05/22/2014 08/05/2014	2014-9/50 2014-8/6 2014-17/136
<u>tickets</u>					
Administrative Services, Fleet Operations	38073	R27-7-3	AMD	03/11/2014	2013-22/14
<u>time</u>					
Labor Commission, Industrial Accidents	38806 38553	R612-200 R612-200-8	AMD AMD	10/22/2014 07/22/2014	2014-18/38 2014-12/43

RULES INDEX

<u>title insurance</u>					
Insurance, Title and Escrow Commission	38612	R592-6	5YR	06/13/2014	2014-13/142
	38156	R592-11	AMD	03/10/2014	2013-24/34
	38156	R592-11	CPR	03/10/2014	2014-4/64
<u>title insurance continuing education</u>					
Insurance, Title and Escrow Commission	38606	R592-7	5YR	06/13/2014	2014-13/143
<u>title insurance recovery assessment</u>					
Insurance, Title and Escrow Commission	38608	R592-9	5YR	06/13/2014	2014-13/144
<u>towing</u>					
Public Safety, Highway Patrol	38711	R714-600	5YR	07/22/2014	2014-16/61
Transportation, Motor Carrier	38449	R909-19	AMD	07/08/2014	2014-10/102
<u>training</u>					
Natural Resources, Wildlife Resources	38558	R657-46	5YR	05/29/2014	2014-12/58
	38603	R657-46	AMD	08/11/2014	2014-13/109
<u>training programs</u>					
Human Resource Management, Administration	38461	R477-10-1	AMD	07/01/2014	2014-10/87
<u>transfers</u>					
Education, Administration	38589	R277-472	5YR	06/10/2014	2014-13/138
	38624	R277-472	AMD	08/07/2014	2014-13/28
<u>Transition to Adult Living</u>					
Human Services, Child and Family Services	38265	R512-306	5YR	01/28/2014	2014-4/73
<u>transmission and distribution pipelines</u>					
Environmental Quality, Drinking Water	38536	R309-550	AMD	11/10/2014	2014-11/135
	38536	R309-550	CPR	11/10/2014	2014-16/52
<u>transparency</u>					
Administrative Services, Finance	38653	R25-10	5YR	06/25/2014	2014-14/79
Health, Center for Health Data, Health Care Statistics	38144	R428-15	AMD	01/07/2014	2013-23/43
	38568	R428-15	AMD	08/05/2014	2014-12/38
	38905	R428-15	5YR	10/10/2014	2014-21/91
<u>transportation</u>					
Administrative Services, Finance	38175	R25-7	AMD	02/07/2014	2014-1/4
	38471	R25-7	AMD	06/23/2014	2014-10/4
	38742	R25-7-8	AMD	10/08/2014	2014-17/12
<u>trespassing</u>					
Regents (Board Of), University of Utah, Administration	38918	R805-4	5YR	10/16/2014	2014-22/42
<u>truancy</u>					
Education, Administration	38831	R277-607	5YR	09/02/2014	2014-18/90
	38778	R277-607	AMD	10/09/2014	2014-17/50
<u>trucks</u>					
Transportation, Motor Carrier	38619	R909-2	5YR	06/16/2014	2014-13/144
	38449	R909-19	AMD	07/08/2014	2014-10/102
<u>trust account records</u>					
Commerce, Real Estate	38213	R162-2f	AMD	02/25/2014	2014-2/4
<u>trust lands funds</u>					
Education, Administration	38541	R277-477	AMD	07/08/2014	2014-11/109
	38326	R277-477-3	NSC	04/01/2014	Not Printed
<u>turkey</u>					
Natural Resources, Wildlife Resources	38847	R657-69	NEW	11/07/2014	2014-19/73

<u>unarmed combat</u>						
Governor, Economic Development, Pete Suazo Utah Athletic Commission	38033	R359-1-604	AMD	01/24/2014	2013-20/25	
<u>unattended deaths</u>						
Health, Disease Control and Prevention, Medical Examiner	38419	R448-10	5YR	04/07/2014	2014-9/55	
<u>underground storage tanks</u>						
Environmental Quality, Environmental Response and Remediation	38764	R311-201-12	AMD	10/10/2014	2014-17/76	
	38765	R311-204-3	AMD	10/10/2014	2014-17/79	
	38766	R311-206-11	AMD	10/10/2014	2014-17/80	
	38767	R311-209-4	AMD	10/10/2014	2014-17/82	
	38768	R311-212	AMD	10/10/2014	2014-17/84	
<u>unemployment compensation</u>						
Workforce Services, Unemployment Insurance	38965	R994-305	5YR	11/20/2014	Not Printed	
	38665	R994-309	5YR	07/01/2014	2014-14/84	
	38666	R994-310	5YR	07/01/2014	2014-14/85	
	38667	R994-311	5YR	07/01/2014	2014-14/85	
	38668	R994-312	5YR	07/01/2014	2014-14/86	
	38248	R994-312-102	AMD	04/15/2014	2014-3/41	
<u>units</u>						
Environmental Quality, Radiation Control	38752	R313-12-3	AMD	10/21/2014	2014-17/88	
<u>unlawful conduct</u>						
Administrative Services, Purchasing and General Services	38521	R33-24	NEW	07/08/2014	2014-11/95	
	38758	R33-24	AMD	10/08/2014	2014-17/18	
<u>UPP</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	38322	R414-320	AMD	04/21/2014	2014-6/42	
	38816	R414-320	EMR	09/01/2014	2014-18/85	
	38819	R414-320	AMD	11/01/2014	2014-18/18	
<u>used oil</u>						
Environmental Quality, Solid and Hazardous Waste	38611	R315-15	AMD	10/03/2014	2014-13/56	
	38611	R315-15	CPR	10/03/2014	2014-17/130	
<u>Utah Court of Appeals</u>						
Administrative Services, Purchasing and General Services	38516	R33-18	NEW	07/08/2014	2014-11/89	
<u>Utah procurement rules</u>						
Administrative Services, Purchasing and General Services	38500	R33-1	R&R	07/08/2014	2014-11/4	
	38689	R33-1	5YR	07/08/2014	2014-15/61	
<u>Utah Public Financial Website</u>						
Administrative Services, Finance	38653	R25-10	5YR	06/25/2014	2014-14/79	
<u>Utah resident temporarily out-of-state</u>						
Public Safety, Driver License	38941	R708-45	5YR	11/07/2014	2014-23/57	
<u>Utah Transparency Advisory Board</u>						
Administrative Services, Finance	38634	R25-11	NEW	08/21/2014	2014-14/4	
<u>utah.gov</u>						
Technology Services, Administration	38238	R895-4	5YR	01/14/2014	2014-3/54	
	38239	R895-4	NSC	01/30/2014	Not Printed	
<u>utilities</u>						
Public Service Commission, Administration	38874	R746-700	5YR	09/22/2014	2014-20/77	

RULES INDEX

<u>utility service shutoff</u>						
Public Service Commission, Administration	38644	R746-200-7	AMD	08/22/2014	2014-14/67	
<u>vacations</u>						
Human Resource Management, Administration	38084	R477-7	AMD	01/14/2014	2013-22/126	
	38455	R477-7	AMD	07/01/2014	2014-10/71	
<u>vaccinations</u>						
Agriculture and Food, Animal Industry	38294	R58-3	AMD	04/16/2014	2014-5/4	
<u>vehicle replacement</u>						
Administrative Services, Fleet Operations	38312	R27-4-13	AMD	04/22/2014	2014-6/4	
<u>vending machines</u>						
Education, Administration	38628	R277-719	AMD	08/07/2014	2014-13/35	
<u>verification of legal authority</u>						
Administrative Services, Purchasing and General Services	38515	R33-17	NEW	07/08/2014	2014-11/87	
<u>veterans' and military affairs</u>						
Veterans' Affairs, Administration	38228	R978-1	NSC	01/30/2014	Not Printed	
<u>victim compensation</u>						
Crime Victim Reparations, Administration	38221	R270-1-13	EMR	01/04/2014	2014-3/47	
<u>victims of crimes</u>						
Crime Victim Reparations, Administration	38221	R270-1-13	EMR	01/04/2014	2014-3/47	
<u>vinyl coating</u>						
Environmental Quality, Air Quality	38678	R307-345	AMD	12/01/2014	2014-15/21	
	38678	R307-345	CPR	12/01/2014	2014-21/61	
<u>violations</u>						
Environmental Quality, Radiation Control	38076	R313-14	AMD	04/03/2014	2013-22/45	
	38076	R313-14	CPR	04/03/2014	2014-4/50	
<u>VOC</u>						
Environmental Quality, Air Quality	38686	R307-354	AMD	12/01/2014	2014-15/40	
	38686	R307-354	CPR	12/01/2014	2014-21/78	
<u>VOC emission</u>						
Environmental Quality, Air Quality	38677	R307-344	AMD	12/01/2014	2014-15/19	
	38677	R307-344	CPR	12/01/2014	2014-21/59	
<u>vocational rehabilitation counselor</u>						
Commerce, Occupational and Professional Licensing	38761	R156-78	5YR	08/14/2014	2014-17/136	
<u>volunteer health care practitioner</u>						
Commerce, Occupational and Professional Licensing	38382	R156-81	5YR	03/25/2014	2014-8/37	
<u>voting</u>						
Lieutenant Governor, Elections	38384	R623-2	5YR	03/26/2014	2014-8/47	
<u>wages</u>						
Human Resource Management, Administration	38469	R477-6	AMD	07/01/2014	2014-10/67	
<u>waivers</u>						
Labor Commission, Industrial Accidents	38803	R612-400-1	AMD	10/22/2014	2014-18/55	
	38804	R612-400-2	AMD	10/22/2014	2014-18/56	
	38808	R612-400-3	AMD	10/22/2014	2014-18/58	
	38807	R612-400-4	AMD	10/22/2014	2014-18/63	
<u>waste disposal</u>						
Environmental Quality, Water Quality	38235	R317-1-7	AMD	03/27/2014	2014-3/13	
	38402	R317-1-7	AMD	08/01/2014	2014-8/13	

<u>wastewater</u>						
Environmental Quality, Water Quality	38481	R317-401	5YR	05/06/2014	2014-11/173	
<u>wastewater treatment</u>						
Environmental Quality, Water Quality	38531	R317-10	AMD	08/27/2014	2014-11/143	
<u>water hauling</u>						
Environmental Quality, Drinking Water	38536	R309-550	AMD	11/10/2014	2014-11/135	
	38536	R309-550	CPR	11/10/2014	2014-16/52	
<u>water pollution</u>						
Environmental Quality, Water Quality	38235	R317-1-7	AMD	03/27/2014	2014-3/13	
	38402	R317-1-7	AMD	08/01/2014	2014-8/13	
	38288	R317-2-14	AMD	07/02/2014	2014-5/25	
	38288	R317-2-14	CPR	07/02/2014	2014-11/168	
	38271	R317-5	R&R	03/26/2014	2014-4/26	
	38531	R317-10	AMD	08/27/2014	2014-11/143	
	38661	R317-12	R&R	08/27/2014	2014-14/48	
<u>water quality standards</u>						
Environmental Quality, Water Quality	38288	R317-2-14	AMD	07/02/2014	2014-5/25	
	38288	R317-2-14	CPR	07/02/2014	2014-11/168	
<u>water rights</u>						
Natural Resources, Water Rights	38723	R655-3	5YR	08/01/2014	2014-16/59	
<u>water slides</u>						
Health, Disease Control and Prevention, Environmental Services	38089	R392-302	AMD	02/14/2014	2013-22/69	
<u>water system rating</u>						
Environmental Quality, Drinking Water	38727	R309-400	AMD	11/17/2014	2014-17/60	
<u>water wells</u>						
Natural Resources, Water Rights	38722	R655-4	5YR	08/01/2014	2014-16/60	
<u>waterfowl</u>						
Natural Resources, Wildlife Resources	38605	R657-9	AMD	08/11/2014	2014-13/106	
<u>well drillers license</u>						
Natural Resources, Water Rights	38722	R655-4	5YR	08/01/2014	2014-16/60	
<u>well logging</u>						
Environmental Quality, Radiation Control	38147	R313-38-3	AMD	04/07/2014	2013-23/20	
	38147	R313-38-3	CPR	04/07/2014	2014-5/56	
<u>white-collar contests</u>						
Governor, Economic Development, Pete Suazo Utah Athletic Commission	38033	R359-1-604	AMD	01/24/2014	2013-20/25	
<u>wild turkey</u>						
Natural Resources, Wildlife Resources	38601	R657-54	AMD	08/11/2014	2014-13/111	
	38790	R657-54	5YR	08/18/2014	2014-18/97	
<u>wildlife</u>						
Natural Resources, Wildlife Resources	38616	R657-3	AMD	08/11/2014	2014-13/100	
	38168	R657-5	AMD	02/10/2014	2014-1/44	
	38600	R657-6	AMD	08/11/2014	2014-13/102	
	38605	R657-9	AMD	08/11/2014	2014-13/106	
	38231	R657-10	AMD	03/11/2014	2014-3/23	
	38849	R657-10	AMD	11/07/2014	2014-19/69	
	38848	R657-11	AMD	11/07/2014	2014-19/71	
	38169	R657-12	AMD	02/10/2014	2014-1/52	
	38167	R657-13	AMD	02/10/2014	2014-1/54	
	38316	R657-13	AMD	04/21/2014	2014-6/66	
	38483	R657-13	AMD	07/08/2014	2014-11/160	
	38230	R657-27	AMD	03/11/2014	2014-3/26	

RULES INDEX

	38170	R657-38	AMD	02/10/2014	2014-1/61
	38171	R657-41	AMD	02/10/2014	2014-1/68
	38232	R657-43	AMD	03/11/2014	2014-3/30
	38558	R657-46	5YR	05/29/2014	2014-12/58
	38603	R657-46	AMD	08/11/2014	2014-13/109
	38601	R657-54	AMD	08/11/2014	2014-13/111
	38790	R657-54	5YR	08/18/2014	2014-18/97
	38236	R657-60	AMD	03/11/2014	2014-3/32
	38477	R657-60	AMD	06/24/2014	2014-10/99
	38427	R657-62	5YR	04/14/2014	2014-9/58
	38604	R657-62	AMD	08/11/2014	2014-13/115
	38172	R657-67	NEW	02/10/2014	2014-1/70
	38484	R657-67	AMD	07/08/2014	2014-11/165
	38602	R657-68	NEW	08/11/2014	2014-13/120
	38950	R657-68	NSC	11/28/2014	Not Printed
	38847	R657-69	NEW	11/07/2014	2014-19/73
<u>wildlife conservation</u>					
Natural Resources, Wildlife Resources	38170	R657-38	AMD	02/10/2014	2014-1/61
<u>wildlife law</u>					
Natural Resources, Wildlife Resources	38848	R657-11	AMD	11/07/2014	2014-19/71
	38169	R657-12	AMD	02/10/2014	2014-1/52
	38167	R657-13	AMD	02/10/2014	2014-1/54
	38316	R657-13	AMD	04/21/2014	2014-6/66
	38483	R657-13	AMD	07/08/2014	2014-11/160
	38230	R657-27	AMD	03/11/2014	2014-3/26
	38236	R657-60	AMD	03/11/2014	2014-3/32
	38477	R657-60	AMD	06/24/2014	2014-10/99
<u>wildlife permits</u>					
Natural Resources, Wildlife Resources	38171	R657-41	AMD	02/10/2014	2014-1/68
<u>wood furniture</u>					
Environmental Quality, Air Quality	38676	R307-343	AMD	12/01/2014	2014-15/16
	38676	R307-343	CPR	12/01/2014	2014-21/56
<u>work-based learning programs</u>					
Education, Administration	38412	R277-916	5YR	04/04/2014	2014-9/53
<u>workers' compensation</u>					
Labor Commission, Adjudication	38306	R602-2	AMD	04/22/2014	2014-6/61
	38554	R602-2-4	AMD	07/22/2014	2014-12/41
	38193	R602-2-5	AMD	02/21/2014	2014-2/7
Labor Commission, Industrial Accidents	38809	R612-100-1	AMD	10/22/2014	2014-18/31
	38805	R612-100-2	AMD	10/22/2014	2014-18/32
	38811	R612-100-3	AMD	10/22/2014	2014-18/35
	38806	R612-200	AMD	10/22/2014	2014-18/38
	38553	R612-200-8	AMD	07/22/2014	2014-12/43
	38810	R612-300	AMD	10/22/2014	2014-18/46
	38881	R612-300-4	AMD	11/24/2014	2014-20/59
	38803	R612-400-1	AMD	10/22/2014	2014-18/55
	38804	R612-400-2	AMD	10/22/2014	2014-18/56
	38808	R612-400-3	AMD	10/22/2014	2014-18/58
	38807	R612-400-4	AMD	10/22/2014	2014-18/63
<u>x-rays</u>					
Environmental Quality, Radiation Control	38751	R313-70	AMD	10/21/2014	2014-17/104
	38146	R313-70-5	AMD	02/18/2014	2013-23/22
<u>zoological animals</u>					
Natural Resources, Wildlife Resources	38616	R657-3	AMD	08/11/2014	2014-13/100