

UTAH STATE BULLETIN

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

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Division of Administrative Rules, 4120 State Office Building, Salt Lake City, Utah 84114-1201, telephone 801-538-3764, FAX 801-359-0759. Additional rulemaking information, and electronic versions of all administrative rule publications are available at: <http://www.rules.utah.gov/>

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

Division of Administrative Rules, Salt Lake City 84114

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EDITOR'S NOTES

Legislation Affecting Administrative Rulemaking

During the 2011 General Session, the Legislature passed the following bill that affects rulemaking.

H.B. 228 Administrative Rules Reauthorization

H.B. 228, entitled "Administrative Rules Reauthorization", is the legislation required annually by Subsection 63G-3-502(3). The bill was sponsored by Rep. Curtis Oda, and carried a recommendation from the Legislature's Administrative Rules Review Committee.

The bill was substituted late in the session. As passed, the bill reauthorized all administrative rules except Section R311-201-11, Environmental Quality, Environmental Response and Remediation, Underground Storage Tanks: Certification Programs and UST Operator Training, Work Performed by Licensed Engineers or Geologists; and Section R311-207-9, Environmental Quality, Environmental Response and Remediation, Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks, Third Party Consultant.

The Governor signed H.B. 228 on 03/23/2011. The bill goes into effect on 05/01/2011 pursuant to section 2 of the bill.

More information about H.B. 228 is available from the Legislature's web site at:
<http://le.utah.gov/~2011/htmdoc/hbillhtm/HB0228S01.htm>.

Questions about this bill may be directed to Ken Hansen (801-538-3777).

End of the Editor's Notes Section

SPECIAL NOTICES

Commerce Administration

Public Hearing on Proposed Modified Fee Schedule for Services Provided and Costs Incurred by the Department of Commerce During Fiscal Year 2012

The Department of Commerce will hold a hearing on Wednesday, April 27, 2011, at 9:00 a.m. in the Heber M. Wells Building, Second Floor, Room 250, 160 East 300 South, Salt Lake City, Utah.

The purpose of the hearing is to obtain public comment on a proposed schedule for fees which could be assessed for services provided and costs which would be incurred for new programs created by the Utah Legislature during the 2011 General Session. The proposed modified fee schedule supplements the Department's fee schedule approved by the Legislature during its 2011 General Session.

Subsection 63J-1-303(5) of the Budgetary Procedures Act provides an agency may establish and assess regulatory fees for new programs created by the Legislature if the new program's effective date is before the Legislature's next annual general session. That statute governs the process for the interim assessment of such fees prior to subsequent legislative approval.

Background: Various divisions of the Department assess fees for licensure, registration, or certification of individuals and businesses to engage in certain occupations or professions. Changes to the existing Department fee schedule were not proposed prior to the 2011 General Session of the Utah Legislature. However, this proposed fee schedule is prompted by legislation which was enacted during that Session. Copies of the proposed fee schedule will be distributed at the April 27, 2011 hearing.

For further information, please contact Peter Anjewierden at 801-530-6293.

Environmental Quality Drinking Water

Correction of Citation Information for Authorizing Statutes for Filings Under DAR No. 34243 for Section R309-110-4, and DAR No. 34244 for Rule R309-520 in the April 1, 2011, Bulletin

It has come to the attention of the Utah Division of Drinking Water that the citation information for authorizing statutes in the rule analysis for two change in proposed rule filings were incorrectly listed as "Section 1-4-104" of the Utah State Code. The correct citation information for authorizing statutes for DAR No. 34243, Section R309-110-4, Definitions, and DAR No. 34244, Rule R309-520, Facility Design and Operation: Disinfection, should be "Section 19-4-104" of the Utah State Code.

These change in proposed rule filings were published in the April 1, 2011, Utah State Bulletin: DAR No. 24243 (2011-7, pg. 28) and DAR No. 24244 (2011-7, pg. 33).

Questions regarding these filings are to be directed to: Ying-Ying Macauley, by phone at 801-536-4188, by FAX at 801-536-4211, or by e-mail at ymacauley@utah.gov.

Health
Health Care Financing, Coverage and Reimbursement Policy
Notice for May 2011 Medicaid Rate Changes

Effective May 1, 2011, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies as well as potential adjustments to existing codes. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/bcrp.htm>

End of the Special Notices Section

EXECUTIVE DOCUMENTS

As part of his or her constitutional duties, the Governor periodically issues **EXECUTIVE DOCUMENTS** comprised of Executive Orders, Proclamations, and Declarations. "Executive Orders" set policy for the Executive Branch; create boards and commissions; provide for the transfer of authority; or otherwise interpret, implement, or give administrative effect to a provision of the Constitution, state law or executive policy. "Proclamations" call special or extraordinary legislative sessions; designate classes of cities; publish states-of-emergency; promulgate other official formal public announcements or functions; or publicly avow or cause certain matters of state government to be made generally known. "Declarations" designate special days, weeks or other time periods; call attention to or recognize people, groups, organizations, functions, or similar actions having a public purpose; or invoke specific legislative purposes (such as the declaration of an agricultural disaster).

The Governor's Office staff files **EXECUTIVE DOCUMENTS** that have legal effect with the Division of Administrative Rules for publication and distribution. All orders issued by the Governor not in conflict with existing laws have the full force and effect of law during a state of emergency when a copy of the order is filed with the Division of Administrative Rules. (See Section 63K-4-401).

Governor's Proclamation 2011/001/S: Calling the Fifty-Ninth Legislature into a First Special Session

PROCLAMATION

WHEREAS, since the adjournment of the 2011 General Session of the Fifty-Ninth Legislature of the State of Utah, a matter has arisen that requires immediate legislative attention;

WHEREAS, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Legislature into Special Session; and

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the laws of the State of Utah, call the Fifty-Ninth Legislature of the State of Utah into a First Special Session at the Utah State Capitol, in Salt Lake City, Utah, on the 25th day of March 2011, at 12:00 p.m. for a single purpose:

(1) to repeal HB477--Government Records Amendment--which passed during the 2011 Regular Session of the Fifty-Ninth Legislature.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 21st day of March, 2011.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Greg Bell
Lieutenant Governor

2011/001/S

Governor's Executive Order EO/003/2011: Providing Public Services on Fridays

EXECUTIVE ORDER

PROVIDING PUBLIC SERVICES ON FRIDAYS

WHEREAS, on August 4, 2008, the State of Utah launched the *Working 4 Utah initiative* with the goal of becoming the model employer of qualified people;

WHEREAS, the *Working 4 Utah* initiative was designed to provide extended hours of access to government services, reduce energy consumption, and attract and retain a quality workforce;

WHEREAS, under the *Working 4 Utah initiative*, state agency employees' working hours were generally adjusted from five eight-hour days per week to four ten-hour days per week, with state agencies open from 7:00 a.m. until 6:00 p.m., Monday through Thursday;

WHEREAS, the public response to the extended hours has been overwhelmingly positive with independently conducted polls demonstrating that 60 per cent of Utahns believe the four ten-hour day schedule is good for Utah residents, 72 per cent of Utahns think the work schedule is a good way for government to save money, and 66 per cent of Utahns indicate they believe the State should continue the initiative;

WHEREAS, the *Working 4 Utah* initiative has promoted efficiencies in state government and has lead to annual cost savings;

WHEREAS, Utah currently has more than 900 services on-line and continues to find new ways to provide services on-line and, in fact, is a national leader in finding cost savings by better utilizing technology to make services available 24 hours a day, seven days a week;

WHEREAS, in more than two years since the *Working 4 Utah* initiative has been in place, the state has monitored the process and found the need to provide certain services on Fridays, and has opened certain offices to respond to those needs;

WHEREAS, the people of the State of Utah should have the ability to access critical public-facing services on Fridays;

WHEREAS, the state should have the capability to provide critical, public-facing services on Fridays without sacrificing the extended Monday through Thursday hours, nor the cost savings realized by the *Working 4 Utah* initiative;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, by the authority vested in me by the laws and constitution of the state, do hereby order that:

1. by October 1, 2011, all critical, public-facing services provided by executive branch state agencies will be available to the public in one of three ways; (1) in person; (2) on-line; or (3) with telephone support.

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah on this 30th day of March 2011.

(State Seal)

Gary R. Herbert
Governor

Attest:

Greg Bell
Lieutenant Governor

EO/003/2011

Governor's Executive Order EO/002/2011: Declaring an Agricultural Disaster in Iron and Washington Counties Due to Heavy Rains and Flooding

EXECUTIVE ORDER

Declaring an Agricultural Disaster in Iron and Washington Counties Due to Heavy Rains and Flooding

WHEREAS, severe winter storms and heavy rains occurred between the dates of December 20-24, 2010, in and around Washington and Iron Counties;

WHEREAS, the heavy rains caused major flooding in these counties;

WHEREAS, the rains and flooding caused significant damage to agricultural operations in these counties;

WHEREAS, among other damages, farmers and ranchers in these counties lost at least 30% of their crop and forage production;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, do hereby declare an Agricultural Disaster for Washington and Iron Counties due to the aforesaid severe winter storms, heavy rains, and flooding in the State of Utah.

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah on this, the 16th day of March 2011.

(State Seal)

Gary R. Herbert
Governor, State of Utah

Attest:

Greg S. Bell
Lieutenant Governor, State of Utah

EO/002/2011

End of the Executive Documents Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between March 16, 2011, 12:00 a.m., and April 01, 2011, 11:59 p.m. are included in this, the April 15, 2011 issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least May 16, 2011. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through August 13, 2011, the agency may notify the Division of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses and the agency must start the process over.

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

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

The Proposed Rules Begin on the Following Page

**Commerce, Occupational and
Professional Licensing
R156-15
Health Facility Administrator Act Rule**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 34545
FILED: 03/31/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Health Facility Administrators Licensing Board reviewed the rule and determined the rule needs to be updated to clarify the licensure by endorsement requirements and continuing education requirements for licensees.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-15-102(3), an incorrect rule citation is corrected; in Subsection R156-15-102(4), the definition of "general administration" is updated to comply with Health Department regulations in that a licensed health facility administrator may not exceed responsibility for more than one facility. In Section R156-15-308, additions clarify that an applicant applying for licensure by endorsement must also meet the examination requirement as stated in Section R156-15-302d. A new Subsection R156-15-309(6) is added to provide that continuing professional education under the sponsorship of or approved by the licensing agency of Utah or another state may qualify as continuing education. The remaining subsections are renumbered.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a) and Subsection 58-15-3(3)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
- ◆ **LOCAL GOVERNMENTS:** The proposed amendments only apply to licensed health facility administrators and applicants for licensure in that classification. As a result, the proposed amendments do not apply to local governments.
- ◆ **SMALL BUSINESSES:** The proposed amendments only apply to licensed health facility administrators and applicants for licensure in that classification. Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments only apply to licensed health facility administrators and applicants for licensure in that classification. The proposed amendments should have no increased compliance cost or impact on licensed health facility administrators. An applicant for licensure as a health facility administrator who is applying by endorsement may incur a minimal cost of \$75 to take an examination if it is determined the applicant does not meet the examination requirement for licensure. The Division is not able to determine an aggregate cost to applicants since it does not know how many applicants who are applying by endorsement will not meet the examination requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed health facility administrators and applicants for licensure in that classification. The proposed amendments should have no increased compliance cost or impact on licensed health facility administrators. An applicant for licensure as a health facility administrator who is applying by endorsement may incur a minimal cost of \$75 to take an examination if it is determined the applicant does not meet the examination requirement for licensure.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing clarifies definitions and standards for licensure by endorsement and continuing education. As indicated in the summary, some applicants for licensure by endorsement who do not meet the examination requirement may incur a \$75 cost to take the examination. No other 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:

- ◆ Sally Stewart by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at sstewart@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/16/2011

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

- ◆ 05/03/2011 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 402, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 05/23/2011

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.

R156-15. Health Facility Administrator Act Rule.

R156-15-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 15, as used in this rule:

(1) "Administrator in training (AIT)" means an individual who is participating in a preceptorship with a licensed health facility administrator.

(2) "Board" means the Health Care Administrators Board.

(3) "Distance learning" means acquiring qualified professional education as referenced in Subsection R156-15-309([2]4) using technologies and other forms of learning, including internet, audio/visual recordings, mail or other correspondence.

(4) "General administration" as used in the definition of "administrator", Subsection 58-15-2(1), means that the administrator is responsible for operation of the health facility in accordance with all applicable laws regardless of whether the administrator is present full or part time in the facility or whether the administrator maintains an office inside or outside of the facility, but may not exceed responsibility for more than one facility.

(5) "General supervision" means general supervision as defined in Subsection R156-1-102a(4)(c).

(6) "Nursing home administrator" means a health facility administrator.

(7) "Preceptor" means a licensed health facility administrator who is responsible for the supervision and training of an AIT.

(8) "Preceptorship" means a formal training program approved by the division in collaboration with the board for an administrator in training (AIT), under the supervision of an approved licensed health facility administrator. The program is conducted in a licensed health facility.

(9) "Qualifying experience" means at least 8,000 hours of employment in a licensed health facility including hours in a supervisory role as referenced in Section R156-15-302c.

R156-15-308. License By Endorsement.

A license may be granted to an applicant in accordance with Section 58-1-302 and Subsection 58-15-4(6) who is:

(1) currently a licensed health facility administrator in good standing in another state[~~in accordance with Section 58-1-302.~~]; and

(2) meets the examination requirement as stated in Section R156-15-302d.

R156-15-309. Continuing Education.

(1) In accordance with Subsections 58-1-203(1)(g) and 58-1-308(3)(b), there is created a continuing professional education requirement as a condition for renewal or reinstatement of licenses under Title 58, Chapter 15.

(2) During each two year period commencing on June 1 of each odd numbered year, a licensee shall be required to complete not less than 40 hours of qualified professional education directly

related to the licensee's professional practice, of which no more than 10 hours shall be distance learning.

(3) The required number of hours of qualified professional education for an individual who first becomes licensed during the two year period shall be decreased in a pro-rata amount equal to any part of that two year period preceding the date on which that individual first became licensed.

(4) Qualified professional education under this section shall:

(a) have an identifiable clear statement of purpose and defined objective for the educational program directly related to the practice of a health facility administrator;

(b) be relevant to the licensee's professional practice;

(c) be presented in a competent, well organized, and sequential manner consistent with the stated purpose and objective of the program;

(d) be prepared and presented by individuals who are qualified by education, training and experience; and

(e) have associated with it a competent method of registration of individuals who actually completed the professional education program and records of that registration and completion are available for review.

(5) Education obtained from an accredited university or college in pursuit of an advanced degree may qualify as continuing education.

(6) Continuing professional education under the sponsorship of or approved by the licensing agency of Utah or another state may qualify as continuing education.

~~(6)7~~ A licensee shall be responsible for maintaining competent records of completed qualified professional 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 qualified professional education to demonstrate it meets the requirements under this section.

~~(7)8~~ Waiver from or an extension of time to complete continuing education shall be in accordance with Section R156-1-308d. A licensee who receives a waiver or extension may be excused from the requirement for a period of up to three years.

KEY: licensing, health facility administrators

Date of Enactment or Last Substantive Amendment: [~~June 7, 2010~~]2011

Notice of Continuation: November 30, 2006

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-15-3(3)

Commerce, Occupational and
Professional Licensing
R156-63b
Security Personnel Licensing Act
Armored Car Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34542

FILED: 03/31/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This purpose of this rule filing is to amend the rule by: 1) clarifying the qualification for licensure in Section R156-63b-302a with respect to a driver license or identification card; 2) adding a new Section R156-63b-302h which defines the issuance of an interim permit to an armored car security officer; 3) making it the responsibility of a licensee to maintain documentation showing compliance with continuing education requirements; 4) adding the requirement that continuing education providers supply to course attendees, who complete a course, a course completion certificate and defining the content requirements of the course completion certificate; and 5) deleting Section R156-63b-307.

SUMMARY OF THE RULE OR CHANGE: In Section R156-63b-302a, amendments require that a copy of a drivers license or identification card be issued by a state or territory of the United States or by the District of Columbia. A new Section R156-63b-302h is added to allow the Division to immediately issue an interim permit to an applicant who submits a complete application and meets additional criteria outlined in the section. In Section R156-63b-304, adds amendments to make it the responsibility of a licensee to maintain documentation showing compliance with the continuing education requirement. Also adds that continuing education providers shall provide course attendees who successfully complete a course with a course completion certificate and defined content requirements of the course completion certificate. Section R156-63b-307 is deleted due to the addition of the new Section R156-63b-302h.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-63-101 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 \$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 only apply to licensed armored car companies and armored car security officers and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.

◆ **SMALL BUSINESSES:** The proposed amendments only apply to licensed armored car companies and armored car security officers and applicants for licensure in those classifications. The proposed amendments may affect some armored car security company training programs by requiring minor modifications which will have an unknown cost.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments only apply to licensed armored car companies and armored car security officers and applicants for licensure in those classifications. The proposed amendments may affect some armored car security companies who conduct continuing education seminars as they may need to develop a course completion certificate. However, these costs to that industry cannot be estimated, but any costs incurred should be minimal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed armored car companies and armored car security officers and applicants for licensure in those classifications. The proposed amendments may affect some armored car security companies who conduct continuing education seminars as they may need to develop a course completion certificate. However, these costs to that industry cannot be estimated, but any costs incurred should be minimal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing adds a requirement for continuing education providers to provide a course completion certificate to course attendees, which may result in some minimal costs to the providers. Otherwise, the rule filing clarifies and reorganizes existing standards. No further 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:

◆ Clyde Ormond by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at cormond@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/16/2011

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 04/21/2011 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 250 (second floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 05/23/2011

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.
R156-63b. Security Personnel Licensing Act Armored Car Rule.

R156-63b-302a. Qualifications for Licensure - Application Requirements.

(1) An application for licensure as an armored car company shall be accompanied by:

(a) two fingerprint cards for the applicant's qualifying agent, and all of the applicant's officers, directors, shareholders owning more than 5% of the stock, partners, proprietors, and responsible management personnel;

(b) a fee established in accordance with Section 63J-1-504 equal to the cost of conducting a check of records of the Federal Bureau of Investigation, and Bureau of Criminal Identification, Utah Department of Public Safety, for each of the applicant's qualifying agent, officers, directors, shareholders owning more than 5% of the stock, partners, proprietors, and responsible management personnel; and

(c) a copy of the driver license or ~~[Utah]~~an identification card issued by a state or territory of the United States or the District of Columbia to the applicant's qualifying agent, officers, directors, shareholders owning more than 5% of the stock, partners, proprietors, and responsible management personnel.

(2) An application for licensure as an armored car security officer shall be accompanied by:

(a) two fingerprint cards for the applicant;

(b) a fee established in accordance with Section 63J-1-504 equal to the cost of conducting a check of records of:

(i) the Federal Bureau of Investigation for the applicant; and

(ii) the Bureau of Criminal Identification of the Utah Department of Public Safety; and

(c) a copy of the driver license or ~~[Utah]~~identification card issued by a state or territory of the United States or District of Columbia to the applicant.

R156-63b-302h. Qualifications for Licensure - Immediate Issuance of an Interim Permit.

(1) In accordance with Section 58-63-310, upon receipt of an application for licensure as an armored care security officer, the Division may immediately issue an interim permit to the applicant, if the applicant meets the following criteria:

(a) the applicant submits with his application an official criminal history report from the Bureau of Criminal Identification showing "No Criminal Record Found";

(b) the applicant has not answered "yes" to any question on the qualifying questionnaire section of the application; and

(c) the applicant has not had a license to practice an occupation or profession denied, revoked, suspended, restricted or placed on probation.

R156-63b-304. Continuing Education for Armored Car Security Officers as a Condition of Renewal.

(1) In accordance with Subsections 58-1-203(1)(g) and 58-1-308(3)(b), there is created a continuing education requirement as a condition of renewal or reinstatement of licenses issued under Title 58, Chapter 63 in the classifications of armored car security officer.

(2) Armored car security officers shall complete 16 hours of continuing education every two years consisting of formal classroom education ~~[- Such education shall include]~~ that covers:

(a) company operational procedures manual;

(b) applicable state laws and rules;

(c) ethics; and

(d) emergency techniques.

(3) In addition to the required 16 hours of continuing education, armored car security officers shall complete not less than 16 additional hours of continuing firearms education and training every two years. The continuing firearms education and training shall be completed in four-hour blocks every six months and shall not include any hours for the continuing education requirement in Subsection R156-63b-304(2). The continuing firearms education and training shall include as a minimum:

(a) live classroom instruction concerning the restrictions in the use of deadly force and firearms safety on duty, at home and on the range; and

(b) a recognized practical pistol recertification course on which the licensee achieves a minimum score of 80% using regular or low light conditions.

(4) Firearms education and training shall comply with the provisions of Title 15, USC Chapter 85, the Armored Car Industry Reciprocity Act.

(5) An individual holding a current armored car security officer license in Utah who fails to complete the required four hours of continuing firearms education within the appropriate six month period will be required to complete one and one half times the number of continuing firearms education hours the licensee was deficient for the reporting period (this requirement is hereafter referred to as penalty hours). The penalty hours shall not be considered to satisfy in whole or in part any of the continuing firearms education hours required for subsequent renewal of the license.

(6) If a renewal period is shortened or lengthened to effect a change of renewal cycle, the continuing education hours required for that renewal period shall be increased or decreased accordingly as a pro rata amount of the requirements of a two-year period.

(7) Each licensee shall maintain documentation showing compliance with the requirements of this section.

(8) The continuing education course provider shall provide course attendees who complete the continuing education course with a course completion certificate.

(9) The certificate shall contain:

(a) the name of the instructor;

(b) the date the course was taken;

(c) the location where the course was taken;

(d) the title of the course;

(e) the name of the course provider; and

(f) the number of continuing education hours completed.

R156-63b-307. Exemptions from Licensure.

~~(1) In accordance with Subsection 58-1-307(1)(c), an applicant who has applied for licensure as an armored car security officer is exempt from licensure and may engage in practice as an armored car security officer in a supervised on-the-job training capacity, for a period of time not to exceed the earlier of 30 days or action by the Division upon the application.~~

~~(2) The Division may issue upon receipt of an application for licensure as an armored car security officer, an on-the-job training letter to the applicant, if the applicant meets the following criteria:~~

~~(a) the applicant has not been licensed as an armored car security officer, armed private security officer or unarmed private security officer in the state of Utah at least two years prior to applying for licensure;~~

~~(b) the applicant submits with his application an official criminal history report from the Bureau of Criminal Identification showing "No Criminal Record Found";~~

~~(c) the applicant has not answered "yes" to any question on the qualifying questionnaire section of the application; and~~

~~(d) the applicant has not had a license to practice an occupation or profession denied, revoked, suspended, restricted or placed on probation.~~

]KEY: licensing, security guards, armored car security officers, armored car company

Date of Enactment or Last Substantive Amendment: [November 13, 2008]2011

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-63-101

Commerce, Occupational and
Professional Licensing
R156-72
Acupuncture Licensing Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34543

FILED: 03/31/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Acupuncture Licensing Board reviewed the rule and determined amendments should be proposed to clarify the required number of continuing education units a licensee must complete during each two-year renewal period and to add a section defining unprofessional conduct.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule the term "rules" has been replaced with "rule" where applicable. Also, the term "division" has been capitalized. A new Section R156-72-302d is being added to define unprofessional conduct. In Section R156-72-303, the proposed amendment is added to clarify a licensee must complete 30 continuing education units (CEUs) during each two-year renewal period as required in Section 58-72-303.

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

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds Code of Ethics, published by National Commission for Certification of Acupuncture and Oriental Medicine (NCCAOM), 10/14/2008

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. The Division anticipates initially there may be an increase in investigations relating to acupuncturists; however the clarification of unprofessional conduct definitions should make any investigations more straight forward.

◆ **LOCAL GOVERNMENTS:** The proposed amendments only apply to licensed acupuncturists and applicants for licensure in that classification. As a result, the proposed amendments do not apply to local governments.

◆ **SMALL BUSINESSES:** The proposed amendments only apply to licensed acupuncturists and applicants for licensure in that classification. Licensees and applicants for licensure may work in a small business. The proposed amendments may affect some licensed acupuncturists who are not maintaining practice standards as required nationally and they will need to adapt their practices accordingly which will have an unknown cost.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments only apply to licensed acupuncturists and applicants for licensure in that classification. The proposed amendments may affect some licensed acupuncturists that are not maintaining practice standards as required nationally and they will need to adapt their practices accordingly which will have an unknown cost. Also, the requirements in Subsection R156-72-302d(1) may affect other persons/companies who sell sanitation supplies. However, any increased sales by a sanitation supply company cannot be determined.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed acupuncturists and applicants for licensure in that classification. The Division cannot estimate the costs to licensed acupuncturists as a result of the proposed amendments but anticipate any costs to be minimal. It is unknown how many acupuncturist practices are out of compliance with the proposed amendments. The continuing education renewal requirement for licensees to complete 30 CEUs within a two-year renewal period appears to be a new requirement but it is not. The renewal requirement is addressed in Subsection 58-72-303. Also, no cost is associated with obtaining a copy of the National Certification Committee of Acupuncture and Oriental Medicine (NCCAOM) Code of Ethics as it can be located on the NCCAOM website for free.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing clarifies provisions relating to unprofessional conduct, continuing education and license renewal. As indicated in the rule summary, any impact to licensees is expected to be minimal, and businesses that sell sanitation supplies could benefit from the clarification that unprofessional conduct includes a licensee failing to maintain premises and equipment in a safe and sanitary condition.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/16/2011

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 05/03/2011 01:00 PM, Heber Wells Bldg, 160 E 300 S, Conference Room 402, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 05/23/2011

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.

R156-72. Acupuncture Licensing Act Rule[s].

R156-72-101. Title.

[These rules are] This rule is known as the "Acupuncture Licensing Act Rule[s]".

R156-72-103. Authority - Purpose.

[These rules are] This rule is adopted by the [d]Division under the authority of Subsection 58-1-106(1)(a) to enable the [d]Division to administer Title 58, Chapter 72.

R156-72-302d. Unprofessional Conduct.

"Unprofessional conduct" includes:

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

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

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

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

R156-72-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 72 is established by rule in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Section R156-1-308c.

(3) In accordance with Section 58-72-303, a licensee must complete 30 continuing education units (CEU) within the two-year renewal period.

KEY: acupuncture, licensing

Date of Enactment or Last Substantive Amendment: [~~October 11, 2006~~2011]

Notice of Continuation: January 9, 2007

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

Commerce, Occupational and
Professional Licensing

R156-83-306

Drugs Approved for Online Prescribing,
Dispensing, and Facilitation

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34544

FILED: 03/31/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Online Prescribing, Dispensing and Facilitation Licensing Board reviewed the rule and determined that two new additional drugs: Hydroquinone up to 4% and Tretinoin up to 0.1% should be added to the list of approved online drugs for online prescribing, dispensing, and facilitation.

SUMMARY OF THE RULE OR CHANGE: Two new additional drugs: Hydroquinone up to 4% and Tretinoin up to 0.1% are being added to the list of approved online drugs for online prescribing, dispensing, and facilitation.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-83-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
- ◆ **LOCAL GOVERNMENTS:** The proposed amendment will not result in direct, measurable costs or benefits for local governments.
- ◆ **SMALL BUSINESSES:** The proposed amendments will result in a monetary impact upon the anticipated planning and cash flow for affected licensed online contract pharmacies, prescribing physicians for licensed contractor pharmacies and internet facilitators. However, the aggregate impact of the proposed amendments cannot be quantified.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments will result in a monetary impact upon the anticipated planning and cash flow for affected licensed online contract pharmacies, prescribing physicians for licensed contractor pharmacies and internet facilitators. However, the aggregate impact of the proposed amendments cannot be quantified. The proposed amendments will also affect the method of delivery and potentially the cost to consumers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments will result in a monetary impact upon the anticipated planning and cash flow for affected licensed online contract pharmacies, prescribing physicians for licensed contractor pharmacies and internet facilitators. However, the individual impact of the proposed amendments cannot be quantified. The proposed amendments will also affect the method of delivery and potentially the cost to consumers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Pursuant to authority granted in statute, the Division amends the list of approved online prescriptions to include Hydroquinone up to 4% and Tretinoin up to 0.1%. As indicated in the rule summary, there may be some fiscal benefit to businesses, but the impact is difficult to ascertain.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/16/2011

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

- ◆ 05/03/2011 10:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 05/23/2011

AUTHORIZED BY: Mark Steinagel, Director

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

**R156-83-306. Drugs Approved for Online Prescribing,
Dispensing, and Facilitation.**

In accordance with Subsection 58-83-306(1)(c), the following legend, non-controlled drugs are approved for prescribing by an online prescriber:

- (1) finasteride;
- (2) sildenafil citrate;
- (3) tadalafil;
- (4) vardenafil hydrochlorid;
- (5) hormonal based contraception (except injectable or implantable methods); and
- (6) varenicline
- (7) hydroquinone up to 4%; and
- (8) tretinoin up to .1%.

KEY: licensing, online prescribing, internet facilitators

Date of Enactment or Last Substantive Amendment: [~~January 10,~~ 2011

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a), 58-83-101

Community and Culture, History
R212-6
State Register for Historic Resources
and Archaeological Sites

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34534

FILED: 03/29/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule changes the process of archaeological or anthropological landmark designation of sites by changing the language from nomination by a property owner to written consent of the property by the owner.

SUMMARY OF THE RULE OR CHANGE: In Subsection R212-6-2(B)(4), the amended change adds property owner definition applying to all fee simple title property. In Section R212-6-4, the amended rule changes nomination of a property by an owner to written consent of a property by the owner.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 9-8-302 and Section 9-8-306 and Section 9-8-401 and Section 9-8-402 and Section 9-8-403

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** None--The existing rule requires the owner to nominate and give written consent. The proposed rule requires written consent by the property owner; however the nomination can be prepared by anyone. One could therefore argue and reasonably so that the proposed rule is less expensive on the property owner because nominating the property is more complex than written consent. This said, the state process is unchanged because the property still has to be nominated and the consent of the owner still has to be given.

◆ **LOCAL GOVERNMENTS:** This rule exists between the state and the property owner. Any relation to local government is unchanged. Local governments are provided the ability to comment on nominations and listings if they have a certified local government (CLG). The new change does not change this authority.

◆ **SMALL BUSINESSES:** This rule has no impact on small businesses. This rule is about listing historic buildings and archaeological sites with written consent of property owner.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule gives no new authority to anyone and retains the property owners authority to not give written consent.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--If an owner does not give written consent and does nothing, the property cannot be listed. The existing rule also requires owner consent, net there is no change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amended rule change will have no impact because if the property owner does nothing, the designation cannot proceed.

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

300 RIO GRANDE
 SALT LAKE CITY, UT 84101-1182
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Lynette Lloyd by phone at 801-533-3553, by FAX at 801-533-3567, or by Internet E-mail at lynettelloyd@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/14/2011

THIS RULE MAY BECOME EFFECTIVE ON: 07/21/2011

AUTHORIZED BY: Wilson Martin, Associate Director

R212. Community and Culture, History.

R212-6. State Register for Historic Resources and Archaeological Sites.

R212-6-1. Scope and Applicability.

Purpose: To establish compatibility between the State and National Register. To establish standards for state landmarks consistent with Sections 9-8-306, 9-8-401, 9-8-402 and 9-8-403.

R212-6-2. Definitions.

A. Terms used in this rule are defined in Sections 9-8-302 and 9-8-402(1).

B. In addition:

1. "division" means the Division of State History;
2. "director" means the director of the Division of State History;
3. "board" means the Board of State History.

4. "property owner" means those persons or entities holding fee simple title to the property.

R212-6-3. State Register for Historic Resources and Archaeological Sites.

1. The State Register for properties and sites incorporates by reference, within this rule, 36 CFR 60.4, 1996 Edition for the selecting of properties and sites as historical places within Utah.

2. Properties or sites recommended for National Register consideration shall automatically be listed on the State Register after they have been recommended by the Board of State History for National Register listing and after the State Historic Preservation Officer has nominated them for listing on the National Register.

3. Should a property or site be found to be ineligible for the National Register by the Keeper of the National Register, National Park Service, that property may be reviewed for removal from the State Register.

4. Properties or sites may be removed from Century and State Registers only after notification to the owner and a hearing by the board, unless they have been entirely demolished, in which case they may be removed administratively by division staff following state procedures for removal.

R212-6-4. State Landmark Listing for Archaeological and Anthropological Sites and Localities.

Archaeological and anthropological sites of significance ~~and localities listed on the State Register may be listed as "State Landmarks" after nomination by the property owners and review and acceptance by the Board of State History]~~ may be designated as Archaeological or Anthropological Landmarks by the Board of State History after nomination and with the written consent of the property owner.

KEY: historic sites, national register, state register

Date of Enactment or Last Substantive Amendment: ~~[February 21, 2002]~~ **2011**

Notice of Continuation: August 1, 2006

Authorizing, and Implemented or Interpreted Law: 9-8-302; 9-8-306; 9-8-401; 9-8-402; 9-8-403; 63G-4-102

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-1-5

Incorporations by Reference

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34523

FILED: 03/24/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection 26-18-3(2)(a) requires the Medicaid program to implement policy through administrative rules. The Department, in order to draw down federal funds, must have an approved State Plan with the Centers for Medicare and Medicaid Services (CMS). This change, therefore, incorporates the most current Medicaid State Plan by reference. It also implements by rule ongoing Medicaid policy for services described in the Utah Medicaid Provider Manual, Medical Supplies Manual and List, and policy described in the hospital services provider manual. It further incorporates these manuals by reference.

SUMMARY OF THE RULE OR CHANGE: Section R414-1-5 is changed to update the incorporation of the State Plan by reference to 04/01/2011. It also incorporates by reference State Plan Amendments (SPAs) that become effective no later than 04/01/2011. Four SPAs that became effective since the last incorporation of the State Plan, and at the time of this proposed change, include SPA 10-006-UT Outpatient Hospital Payments, which adds supplemental payments to state and other government-owned facilities; SPA 10-008-UT Rehabilitative Mental Health Services, which complies with requirements set forth by CMS to update criteria for

psychological testing, individual psychotherapy, family psychotherapy, group psychotherapy, pharmacologic management, and psychosocial rehabilitative services; SPA 10-012-UT Outpatient Hospital Payments, which updates the payment methodology for outpatient hospitals, effective 07/01/2010; and SPA 10-019-UT Public Assistance Reporting Information System (PARIS), which confirms that the Department of Health has an eligibility determination system that provides data matching either through PARIS or any other successor system. This proposed amendment also incorporates by reference the Medical Supplies Manual and List and the hospital services provider manual, effective 04/01/2011.

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

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates Hospital Services Provider Manual, published by Division of Medicaid and Health Financing, 04/01/2011
- ◆ Updates Utah Medicaid Provider Manual, Medical Supplies Manual and List, published by Division of Medicaid and Health Financing, 04/01/2011
- ◆ Updates Utah Medicaid State Plan, published by Division of Medicaid and Health Financing, 04/01/2011

ANTICIPATED COST OR SAVINGS TO:

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

Medicaid policy described in the Medical Supplies Manual and List and in the hospital services provider manual does not create costs or savings to other persons or entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the Medical Supplies Manual and List and in the hospital services provider manual does not create costs or savings to a single Medicaid client or provider.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule should not have a direct fiscal impact on business. Incorporation of the State Plan by this rule assures that the Medicaid program is implemented through administrative rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/16/2011

THIS RULE MAY BECOME EFFECTIVE ON: 05/23/2011

AUTHORIZED BY: David Patton, PhD, Acting Executive Director

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

R414-1. Utah Medicaid Program.

R414-1-5. Incorporations by Reference.

(1) The Department incorporates by reference the Utah State Plan Under Title XIX of the Social Security Act Medical Assistance Program effective ~~January~~ April 1, 2011. It also incorporates by reference State Plan Amendments that become effective no later than ~~January~~ April 1, 2011.

(2) The Department incorporates by reference the Medical Supplies Manual and List described in the Utah Medicaid Provider Manual, Section 2, Medical Supplies, with its referenced attachment, Medical Supplies List, ~~January~~ April 1, 2011, as applied in Rule R414-70.

(3) The Department incorporates by reference the Hospital Services Provider Manual, with its attachments, effective ~~January~~ April 1, 2011.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: ~~[March 1, 2011]~~

Notice of Continuation: April 16, 2007

Authorizing, and Implemented or Interpreted Law: 23-34-2; 26-1-5; 26-18-3

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-14

Home Health Services

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34524

FILED: 03/24/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to update references to statutory authority for home health services and to clarify home health terminology. This change is also necessary to incorporate by reference the definitions from the home health agency provider manual.

SUMMARY OF THE RULE OR CHANGE: This amendment updates references to statutory authority for home health services, clarifies home health terminology, and incorporates by reference the definitions from the home health agency provider manual. It also removes a definition that already exists in another administrative rule and removes a definition that already exists in the home health agency provider manual. It also makes other minor corrections.

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

MATERIALS INCORPORATED BY REFERENCES:

♦ Adds Home Health Agency Provider Manual, published by Division of Medicaid and Health Financing, 04/01/2011

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The Department does not anticipate any impact to the state budget because this amendment only clarifies definitions, terminology, and statutory authority for home health services.

- ◆ LOCAL GOVERNMENTS: There is no impact to local governments because they do not fund or provide home health services for Medicaid clients.
- ◆ SMALL BUSINESSES: The Department does not anticipate any fiscal impact to small businesses because this amendment only clarifies definitions, terminology, and statutory authority for home health services.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The Department does not anticipate any fiscal impact to providers of home health services and to Medicaid clients because this amendment only clarifies definitions, terminology, and statutory authority.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to a single provider of home health services or to a Medicaid client because this amendment only clarifies definitions, terminology, and statutory authority.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule should not have a direct fiscal impact on business. Incorporation of this section of the provider manual by this rule assures that the Medicaid program is implemented through administrative rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/16/2011

THIS RULE MAY BECOME EFFECTIVE ON: 05/23/2011

AUTHORIZED BY: David Patton, PhD, Acting Executive Director

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

R414-14. Home Health Services.

R414-14-1. Introduction and Authority.

(1)[-] Home health services are part-time intermittent health care services that are based on medical necessity and provided to eligible persons in their places of residence when the home is the most appropriate and cost effective setting that is

consistent with the client's medical need. The goals of home health care are to minimize the effects of disability or pain; promote, maintain, or protect health; and prevent premature or inappropriate institutionalization.

2. This rule is authorized under [~~Utah Code~~]Section 26-18-3 and governs the services allowed under 42 CFR 440.70 and 42 CFR, Part 484, 42 U.S.C. Secs. 1395u, 1395x, and 1395y also authorize home health services.

R414-14-2. Definitions.

The following definition applies to home health services. In addition, the Department incorporates by reference the definitions in the Home Health Agency Provider Manual, effective April 1, 2011.

[~~1. "Home health agency" means a public agency or private organization that is licensed by the Department as a home health agency under the authority of Utah Code Title 26, Chapter 21, and in accordance with Utah Administrative Code R432-700. A home health agency is primarily engaged in providing skilled nursing service and other therapeutic services.~~

] [2-](1) "Plan of Care" means a written plan developed cooperatively by home health agency staff and the attending physician. The plan is designed to meet specific needs of an individual, is based on orders written by the attending physician, and is approved and periodically reviewed and updated by the attending physician.

[~~3. "Prior authorization" means that degree of approval for payment of services required to be obtained from Division of Health Care Financing staff by a licensed provider before the service is provided.~~

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R414-14-3. Client Eligibility Requirements.

Home health services are available to categorically eligible and medically needy individuals.

R414-14-4. Program Access Requirements.

(1)[-] Home health service shall be provided only to an individual who is under the care of a physician. The attending physician shall write the orders on which a plan of care is established and certify the necessity for home health services.

(2)[-] The home health agency may accept a recipient for home health ~~care~~services only if there is a reasonable expectation that a recipient's needs can be met adequately by the agency in the recipient's place of residence.

(3)[-] The attending physician and home health agency personnel must review and sign a total plan of care [~~shall~~]-as often as the severity of the patient's condition requires, but at least once every 60 days in accordance with 42 CFR 440.70.

(4)[-] The home health agency must provide quality, cost-effective care and a safe environment in the home through registered or licensed practical nurses who have adequate training, knowledge, judgement, and skill.

(5)[-] Home health aide services may only be provided pursuant to written instructions and under the supervision of a registered nurse by a person selected and trained to assist with routine care not requiring specialized nursing skills.

(6)[-] Over the long term service period, the cost to provide the required ~~care and~~service in the patient's home must be

no greater than the cost to meet the client's medical needs in an alternative setting.

(7)[-] A home health agency may provide an initial assessment visit without prior authorization to assess the patient's needs and establish a plan of care. After the initial visit, all home health care and service must be based on prior authorization.

R414-14-5. Service Coverage.

(1)[-] Two levels of home health service are covered: Skilled Home Health [~~Care~~]Services and Supportive Maintenance Home Health [~~Care~~]Services.

(2)[-] Skilled nursing service encompasses the expert application of nursing theory, practice and techniques by a registered professional nurse to meet the needs of patients in their place of residence through professional judgments, through independently solving patient care problems, and through application of standardized procedures and medically delegated techniques.

(3)[-] Home health aide service encompasses assistance with, or direct provision of, routine care not requiring specialized nursing skill. The home health aide is closely supervised by a registered, professional nurse to assure competent care. The aide works under written instructions and provides necessary care for the patient.

(4)[-] Supportive maintenance home health care serves those patients who have a medical condition which has stabilized, but who demonstrate continuing health problems requiring minimal assistance, observation, teaching, or follow-up. This assistance can be provided by a certified home health agency through the knowledge and skill of a licensed practical nurse (LPN) or a home health aide with periodic supervision by a registered nurse. A physician continues to provide direction.

(5)[-] IV therapy, enteral and parenteral nutrition therapy are provided as a home health service either in conjunction with skilled or maintenance care or as the only service to be provided. Specific policy is outlined in the medical supplies program and all requirements of the home health program must be met in relation to orders, plan of care, and 60 day review and recertification.

(6)[-] Physical therapy and speech pathology services are occasionally indicated and approved for the patient needing home health service. Any therapy services offered by the home health agency directly or under arrangement must be ordered by a physician and provided by a qualified licensed therapist in accordance with the plan of care. Occupational therapy and speech pathology services in the home are available only to clients who are pregnant women or who are individuals eligible under the Early and Periodic Screening, Diagnosis and Treatment Program.

(7)[-] Medical supplies utilized for home health service must be suitable for use in the home in providing home health care, consistent with physician orders, and approved as part of the plan of care.

(8)[-] Medical supplies provided by the home health agency do not require prior approval, but are limited to:

(a) supplies used during the initial visit to establish the plan of care;

(b) supplies that are consistent with the plan of care; and

(c) non-durable medical equipment.

(9)[-] Supportive maintenance home health [~~care~~]services is limited in time equal to one visit per day determined by care needs and care giver participation.

(10)[-] A registered nurse employed by an approved, certified home health agency must supervise all home health services. Nursing service and all approved therapy services must be provided by the appropriate licensed professional.

(11)[-] Only one home health provider (agency) may provide service to a patient during any period of time. However, a subcontractor of a home health provider may provide service if the original agency is the only provider that bills for services. A second provider or agency requesting approval of service will be denied.

(12)[-] Home health care provided to a patient capable of self care is not a covered Medicaid benefit.

(13)[-] Personal care services, except as determined necessary in providing skilled care, is not a covered home health benefit.

(14)[-] Housekeeping or homemaking services are not covered home health benefits.

(15)[-] Occupational therapy is not a covered Medicaid benefit except for children covered under CHEC for medically necessary service.

(16)[-] Home health nursing service beyond the initial evaluation visit requires prior authorization.

(17)[-] All home health service beyond the initial visit, including supplies and therapies, shall be in the plan of care that the home health agency submits for prior authorization. Prior to providing the service, the home health agency must first obtain approval for the level of skilled or maintenance service based on the prior authorization request and a review of the plan of care. If level of service needs change, the home health agency must submit a new prior authorization request.

(18)[-] A home health agency may provide therapy services only in accordance with medical necessity and after receiving prior authorization.

R414-14-6. Reimbursement for Services.

Reimbursement for home health services shall be provided as documented in the Utah [~~State Medicaid~~]Medicaid State Plan, ATTACHMENT 4.19-B. The fee schedule was established after examining usual and customary charges in the industry, applying appropriate discounts, and relying on professional judgment.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: [~~July 1, 2009~~]2011

Notice of Continuation: September 23, 2009

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

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-54-3
Services**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34525

FILED: 03/24/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to incorporate by reference the Speech-Language Services Provider Manual, effective 04/01/2011.

SUMMARY OF THE RULE OR CHANGE: This change incorporates by reference the Speech-Language Services Provider Manual, effective 04/01/2011.

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

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates Speech-Language Services Provider Manual, published by Division of Medicaid and Health Financing, 04/01/2011

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no budget impact because the incorporation of ongoing Medicaid policy described in the Speech-Language Services Provider Manual does not create costs or savings to the Department or other state agencies.
- ◆ **LOCAL GOVERNMENTS:** This change does not impact local governments because they do not fund or provide speech-language services to Medicaid clients.
- ◆ **SMALL BUSINESSES:** There is no budget impact because the incorporation of ongoing Medicaid policy described in the Speech-Language Services Provider Manual does not create costs or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no budget impact because the incorporation of ongoing Medicaid policy described in the Speech-Language Services Provider Manual does not create costs or savings to other persons or entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because the incorporation of ongoing Medicaid policy described in the Speech-Language Services Provider Manual does not create additional costs to a Medicaid client or a loss of revenue to a Medicaid provider.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule should not have a direct fiscal impact on business. Incorporation of this section of the provider manual by this rule assures that the Medicaid program is implemented through administrative rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/16/2011

THIS RULE MAY BECOME EFFECTIVE ON: 05/23/2011

AUTHORIZED BY: David Patton, PhD, Acting Executive Director

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

R414-54. Speech-Language Pathology Services.

R414-54-3. Services.

- (1) Speech-language pathology services are optional.
- (2) Speech-language pathology services are limited to services described in the Speech-Language Services Provider Manual, effective [January]April 1, 2011, which is incorporated by reference.
- (3) The Speech-Language Services Provider Manual specifies the reasonable and appropriate amount, duration, and scope of the service sufficient to reasonably achieve its purpose.
- (4) Speech-language pathology services may be provided by licensed speech-language pathologists, or speech-language pathology aides under the supervision of speech-language pathologists.

KEY: Medicaid, speech-language pathology services

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

Notice of Continuation: March 9, 2009

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

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-59-4

Client Eligibility Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34526

FILED: 03/24/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to incorporate by reference the Audiology Services Provider Manual, effective 04/01/2011.

SUMMARY OF THE RULE OR CHANGE: This change incorporates by reference the Audiology Services Provider Manual, effective 04/01/2011.

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

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates Audiology Services Provider Manual, published by Division of Medicaid and Health Financing, 04/01/2011

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no budget impact because the incorporation of ongoing Medicaid policy described in the Audiology Services Provider Manual does not create costs or savings to the Department or other state agencies.
- ◆ **LOCAL GOVERNMENTS:** This change does not impact local governments because they do not fund or provide audiology services to Medicaid clients.
- ◆ **SMALL BUSINESSES:** There is no budget impact because the incorporation of ongoing Medicaid policy described in the Audiology Services Provider Manual does not create costs or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no budget impact because the incorporation of ongoing Medicaid policy described in the Audiology Services Provider Manual does not create costs or savings to other persons or entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because the incorporation of ongoing Medicaid policy described in the Audiology Services Provider Manual does not create additional costs to a Medicaid client or a loss of revenue to a Medicaid provider.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule should not have a direct fiscal impact on business. Incorporation of this section of the provider manual by this rule assures that the Medicaid program is implemented through administrative rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/16/2011

THIS RULE MAY BECOME EFFECTIVE ON: 05/23/2011

AUTHORIZED BY: David Patton, PhD, Acting Executive Director

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

R414-59. Audiology-Hearing Services.

R414-59-4. Client Eligibility Requirements.

(1) Audiology-hearing services are available only to clients who are pregnant women or who are individuals eligible under the Early and Periodic Screening, Diagnosis and Treatment Program.

(2) An individual receiving audiology-hearing services may receive audiology services as described in the Audiology Services Provider Manual, effective [January]April 1, 2011, which is incorporated by reference.

(3) An individual receiving audiology-hearing services must meet the criteria established in the Audiology Services Provider Manual and obtain prior approval if required.

KEY: Medicaid, audiology

Date of Enactment or Last Substantive Amendment: [~~March-1,~~ 2011

Notice of Continuation: November 22, 2005

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

Insurance, Administration
R590-167
Individual, Small Employer, and Group
Health Benefit Plan Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 34548

FILED: 03/31/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes are being requested as a result of passage of H.B. 128, Health Reform Amendments, passed during the 2011 legislative session. (DAR NOTE: H.B. 128 (2011) is found at Chapter 400, Laws of Utah 2011, and will be effective 05/10/2011.)

SUMMARY OF THE RULE OR CHANGE: The change allows an insurer to use gender as a case characteristic in the rating of a health benefit plan. Another change starts enforcement of the rule 45 days after it is made effective.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-201 and Section 31A-30-106 and Section 31A-30-106.1

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** A health insurer using gender as a case characteristic in the rating of a health benefit plan will need to e-file an updated rate manual with the Insurance Department. Rate manuals are electronic and will have very little effect on the department's workload and will not change its revenues.

◆ **LOCAL GOVERNMENTS:** This rule and its changes have no impact on local government since it deals solely with the relationship between the department and its health licensees.

◆ **SMALL BUSINESSES:** Small businesses could see a change in their rates if their health insurer incorporates gender as a rating characteristic. The change in rates will vary individual to individual.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The rule will affect health insurers, which are large employers, if they decide to use gender as a rating characteristic. If they do they will be required to update and then electronically file their rating manual with the insurance department. Those with the expertise to make such changes are normally a part of an insurers staff. Since the insurer has the option to make this change, the department has no way of knowing how many will pursue the option and cannot estimate the cost or savings of such a change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Small businesses could see a change in their rates if their insurer incorporates gender as a rating characteristic. This rule does not apply to large employers. The change is not mandatory. As a result, insurers can determine if they will use gender as a rating characteristic or not. Since the action is optional on the part of the insurer, the department has no way of knowing how many will pursue the option and cannot estimate the cost or savings of such a change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The change to this rule is not a mandate. Insurers can decide if they use gender as a rating characteristic, knowing that any change in their rates may also have an impact on their customer base.

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

INSURANCE
 ADMINISTRATION
 ROOM 3110 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY, UT 84114-1201
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/16/2011

THIS RULE MAY BECOME EFFECTIVE ON: 05/23/2011

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-167. Individual, Small Employer, and Group Health Benefit Plan Rule.

R590-167-6. Restrictions Relating to Premium Rates.

(1) A covered carrier shall develop a separate rate manual for each class of business. Base premium rates and new business premium rates charged to individuals and small employers by the covered carrier shall be computed solely from the applicable rate manual developed pursuant to this subsection. To the extent that a portion of the premium rates charged by a covered carrier is based on the carrier's discretion, the manual shall specify the criteria and factors considered by the carrier in exercising such discretion.

(2)(a) A covered carrier may not modify the rating method, as defined in Section R590-167-2, used in the rate manual for a class of business until the change has been approved as provided in this subsection. The commissioner may approve a change to a rating method if the commissioner finds that the change is reasonable, actuarially appropriate, and consistent with the purposes of the Act and this rule.

(b) A carrier may modify the rating method for a class of business only after filing an actuarial certification. The filing shall clearly request approval for a change in rating method and contain at least the following information:

(i) the reasons the change in rating method is being requested;

(ii) a complete description of each of the proposed modifications to the rating method;

(iii) a description of how the change in rating method would affect the premium rates currently charged to individuals and small employers in the class of business, including an estimate from a qualified actuary of the number of groups or individuals, and a description of the types of groups or individuals, whose premium rates may change by more than 10% due to the proposed change in rating method, not including general increases in premium rates applicable to all individuals and small employers in a health benefit plan;

(iv) a certification from a qualified actuary that the new rating method would be based on objective and credible data and would be actuarially sound and appropriate; and

(v) a certification from a qualified actuary that the proposed change in rating method would not produce premium rates for individuals and small employers that would be in violation of Sections 31A-30-106, 31A-30-106.1, and 31A-30-106.5.

(3) The rate manual developed pursuant to Subsections 31A-30-106(4), 31A-30-106.1(9), and R590-167-6(1) shall specify the case characteristics and rate factors to be applied by the covered carrier in establishing premium rates for the class of business.

(a) A covered carrier offering a health benefit plan to an individual may not use case characteristics other than those specified in Subsection 31A-30-106(1)(f) without the prior approval of the commissioner. A covered carrier seeking such an approval shall make a filing with the commissioner for a change in rating method under Subsection R590-167-6(2)(b). Tobacco use is not an allowable case characteristic. Tobacco use is an allowable risk characteristic when utilized in compliance with Subsection 31A-30-106(1)(b).

(b)(i) A covered carrier offering or renewing a health benefit plan to a small employer on or after January 1, 2011, may not use case characteristics other than:

(A) age band, as specified in Subsection 31A-30-106.1(6) (a), applicable to the age of the employee;

(B) geographic area; ~~and~~

(C) family composition tier, as specified in 31A-30-106.1(6)(c) ~~[-]; and~~

(D) for plans issued or renewed on or after July 1, 2011, gender of the employee or the spouse.

(ii) For any geographic area used as a case characteristic by a covered carrier, base rates for any small employer health benefit plan offered or renewed on or after January 1, 2011 shall be subject to the following limitations:

(A) for any age band, the ratio of the base rate for the family tier to the base rate for employee only tier, shall not exceed 5; and

(B) for any family composition tier, the ratio of the base rate for any age band to the base rate for "less than 20" age band, may not exceed the following:

(I) 1.22 for age band 20 to 24;

(II) 1.34 for age band 25 to 29;

(III) 1.46 for age band 30 to 34;

(IV) 1.60 for age band 35 to 39;

(V) 1.80 for age band 40 to 44;

(VI) 2.20 for age band 45 to 49;

(VII) 2.80 for age band 50 to 54;

(VIII) 3.60 for age band 55 to 59;

(IX) 4.25 for age band 60 to 64; and

(X) 5.00 for age band over 65.

(c) A covered carrier shall use the same case characteristics in establishing premium rates for each health benefit plan in a class of business and shall apply them in the same manner in establishing premium rates for each such health benefit plan. Case characteristics shall be applied without regard to the risk characteristics of an individual or small employer.

(d) The rate manual shall clearly illustrate the relationship among the base premium rates charged for each health benefit plan in the class of business. If the new business premium rate is different than the base premium rate for a health benefit plan, the rate manual shall illustrate the difference.

(e) Differences among base premium rates for health benefit plans shall be based solely on the reasonable and objective differences in the design and benefits of the health benefit plans and may not be based in any way on the nature of an individual or small employer that choose or are expected to choose a particular health benefit plan. A covered carrier shall apply case characteristics and rate factors within a class of business in a manner that assures that premium differences among health benefit plans for identical individuals or small employers vary only due to reasonable and objective differences in the design and benefits of the health benefit plans and are not due to the nature of the individuals or small employers that choose or are expected to choose a particular health benefit plan.

(f) The rate manual shall provide for premium rates to be developed in a two step process.

(i) In the first step, a base premium rate shall be developed for the individual or small employer without regard to any risk characteristics. The base rates shall reflect only the allowable case characteristics. The base rates for an individual health benefit plan offered to two individuals with the same case characteristics shall be identical. The base rates for a small employer health benefit plan offered to two small employer groups with the same case characteristics shall be identical.

(ii) In the second step, the resulting base premium rate may be adjusted by a risk load, subject to the provisions of Sections 31A-30-106, 31A-30-106.1, and 31A-30-106.5, to reflect the risk characteristics.

(g) Each rate manual developed pursuant to Subsection R590-167-6(1) shall be maintained by the carrier for a period of six years. Updates and changes to the manual shall be maintained with the manual.

(4)(a) Except as provided in Subsection R590-167-6(4) (b), a premium charged to an individual or small employer for a health benefit plan may not include a separate application fee, underwriting fee, or any other separate fee or charge.

(b) A carrier may charge a separate fee with respect to an individual or small employer health benefit plan, but only one fee with respect to such plan, provided the fee is no more than \$5 per month per individual or employee and is applied in a uniform manner to each health benefit plan in a class of business.

(5) The restrictions related to changes in premium rates in Subsections 31A-30-106(1)(c) and 31A-30-106.1(3) shall be applied as follows:

(a) A covered carrier shall revise its rate manual each rating period to reflect changes in base premium rates and changes in new business premium rates.

(b)(i) If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate is less than or the same as the percentage change in the base premium rate, the change in the new business premium rate shall be deemed to be the change in the base premium rate for the purposes of Subsections 31A-30-106(1)(c) and 31A-30-106.1(3).

(ii) If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate exceeds the percentage change in the base premium rate, the health benefit plan shall be considered a health benefit plan into which the covered carrier is no longer enrolling new individuals or small employers for the purposes of Subsections 31A-30-106(1)(c) and 31A-30-106.1(3).

(c) If, for any rating period, the change in the new business premium rate for a health benefit plan differs from the change in the new business premium rate for any other health benefit plan in the same class of business by more than 20%, the carrier shall make a filing with the commissioner containing a complete explanation of how the respective changes in new business premium rates were established and the reason for the difference. The filing shall be made 30 days before the beginning of the rating period.

(d) A covered carrier shall keep on file for a period of at least six years the calculations used to determine the change in base premium rates and new business premium rates for each health benefit plan for each rating period.

(6)(a) Except as provided in Subsection R590-167-6(6)(b), a change in premium rate for an individual or small employer shall produce a revised premium rate that is no more than the following:

(i) the base premium rate for the individual or small employer, as shown in the rate manual as revised for the rating period, multiplied by:

(ii) one plus the sum of:

(iii) the risk load applicable to the individual or small employer during the previous rating period; and

(iv) 15% prorated for periods of less than one year.

(b) In the case of a health benefit plan into which a covered carrier is no longer enrolling new individuals or small employers, a change in premium rate for an individual or small employer shall produce a revised premium rate that is no more than the following:

(i) the base premium rate for the individual or small employer, given its present composition and as shown in the rate manual in effect for the individual or small employer at the beginning of the previous rating period, multiplied by:

(ii) one plus the lesser of:

(A) the change in the base rate; or

(B) the percentage change in the new business premium for the most similar health benefit plan into which the covered carrier is enrolling new individuals or small employers, multiplied by:

(iii) one plus the sum of:

(A) the risk load applicable to the individual or small employer during the previous rating period; and

(B) 15%, prorated for periods of less than one year.

(c) Notwithstanding the provisions of Subsections R590-167-6(6)(a) and (b), a change in premium rate for an individual or small employer may not produce a revised premium rate that would exceed the limitations on rates provided in Subsections 31A-30-106(1)(b) and 31A-30-106.1(2)(b).

(7)(a) A representative of a Taft Hartley trust, including a carrier upon the written request of such a trust, may file in writing with the commissioner a request for the waiver of application of the provisions of Subsections 31A-30-106.1(1) through 31A-30-106.1(6) with respect to such trust.

(b) A request made under Subsection R590-167-6(7)(a) shall identify the provisions for which the trust is seeking the waiver and shall describe, with respect to each provision, the extent to which application of such provision would:

(i) adversely affect the participants and beneficiaries of the trust; and

(ii) require modifications to one or more of the collective bargaining agreements under or pursuant to which the trust was or is established or maintained.

(c) A waiver granted under Subsection 31A-30-104(5) shall not apply to an individual who participates in the trust because the individual is an associate member of an employee organization or the beneficiary of such an individual.

R590-167-14. Enforcement Date.

The commissioner will begin enforcing the revised provisions of this rule ~~January 1, 2011~~ 45 days after the effective date.

KEY: health insurance

Date of Enactment or Last Substantive Amendment: ~~January 10, 2011~~

Notice of Continuation: September 10, 2009

Authorizing, and Implemented or Interpreted Law: 31A-30-106

Workforce Services, Employment Development **R986-200-215** Family Employment Program Two Parent Household (FEPTP)

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 34546
FILED: 03/31/2011

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to make it easier to help legal refugees become job ready.

SUMMARY OF THE RULE OR CHANGE: Refugees have multiple barriers to employment. One barrier is language. By allowing refugees to participate in eligible activities, the Department can provide more English as a Second Language (ESL) to ensure job readiness.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 35A-3-301 et seq. and 35A-3-302(5)(b)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There will be no costs or savings to the state budget as this will not increase the number of people receiving benefits and will be covered by current funding levels.

◆ **LOCAL GOVERNMENTS:** This will have no impact on local government as it is a state-funded program and will be covered by current funding levels.

◆ **SMALL BUSINESSES:** There will be costs to small businesses as this is a state-funded program and there are no costs associated with this change.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no costs or savings to any other entity as this is a state-funded program, there are no costs associated with this change, and the change will be provided within current funding levels.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this proposed change for any affected person.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/16/2011

THIS RULE MAY BECOME EFFECTIVE ON: 05/23/2011

AUTHORIZED BY: Kristen Cox, Executive Director

R986. Workforce Services, Employment Development.**R986-200. Family Employment Program.****R986-200-215. Family Employment Program Two Parent Household (FEPTP).**

(1) FEPTP is for households otherwise eligible for FEP but with two able-bodied parents in the household. Eligible refugee households with two able-bodied parents and at least one dependent child, must first exhaust RRP benefits before considering eligibility for FEPTP.

(2) Families may only participate in this program for seven months out of any 13-month period. Months of participation count toward the 36-month time limit in Sections 35A-3-306 and R986-200-217.

(3) Both parents must participate in eligible activities for a combined total of 60 hours per week, as defined in the employment plan. At least 50 of those hours must be in priority activities. A list of approved priority and eligible activities is available at each employment center. Refugee families may participate in any combination of eligible and priority activities for a combined total of 60 hours per week, as provided in the employment plan.

(4) Both parents are required to participate every week as defined in the employment plan, unless the parent can establish reasonable cause for not participating. Reasonable cause is defined in rule R986-200-212(8),

(5) Payment is made twice per month and only after proof of participation. Payment is based on the number of hours of participation by both parents. The amount of assistance is equal to the FEP payment for the household size prorated based on the number of hours which the parents participated up to a maximum of 60 hours of participation per week. In no event can the financial assistance payment per month for a FEPTP household be more than for the same size household participating in FEP.

(6) If it is determined by the employment counselor that either one of the parents has failed to participate to the maximum extent possible assistance for the entire household unit will terminate immediately.

(7) Because payment is made after performance, advance notice is not required to terminate or reduce assistance payments for households participating in FEPTP. However, if the client requests a hearing within ten days of the termination, payment of financial assistance based on participation of both parents in eligible activities can continue during the hearing process as provided in R986-100-134.

(8) The parents must meet all other requirements of FEP including but not limited to, income and asset limits, cooperation with ORS if there are legally responsible persons outside of the household assistance unit, signing a participation agreement and employment plan and applying for all other assistance or benefits to which they might be entitled.

KEY: family employment program

Date of Enactment or Last Substantive Amendment: ~~January 13, 2011~~

Notice of Continuation: September 8, 2010

Authorizing, and Implemented or Interpreted Law: 35A-3-301 et seq.

End of the Notices of 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 remove obsolete rules from the Utah Administrative Code. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **NOTICE**. By filing a Notice, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. **NOTICES** are effective upon filing.

NOTICES are governed by Section 63G-3-305.

Agriculture and Food, Regulatory Services **R70-330** Raw Milk for Retail

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 34518
FILED: 03/16/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 4-3-2, Utah Dairy Act, is the authority to make and enforce rules about milk. This authority was used to implement Section 4-3-14; Sale of raw milk, Suspension of producer's permit and Severability not permitted.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to implement the standards mandated by the Utah Legislature in Section 4-3-14. Therefore, this rule should be continued. This rule is supported by the dairy industry.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
AGRICULTURE AND FOOD
REGULATORY SERVICES
350 N REDWOOD RD
SALT LAKE CITY, UT 84116-3034
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Don McClellan by phone at 801-538-7145, by FAX at 801-538-7126, or by Internet E-mail at dmcclellan@utah.gov
♦ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
♦ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov
♦ Richard Clark by phone at 801-538-7150, by FAX at 801-538-7126, or by Internet E-mail at richardwclark@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 03/16/2011

Agriculture and Food, Regulatory Services **R70-370** Butter

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 34519
FILED: 03/16/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 4-3-2, Utah Dairy Act, is the authority to make and enforce rules about butter. This authority was used to adopt the United States Department of Agriculture's (USDA) standards for butter, by rule. Utah has several butter manufacturers. Adherence to these standards allows them to market butter in other states and internationally.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to implement the standards mandated by the USDA for marketing butter. Therefore, this rule should be continued. This rule is supported by the dairy industry.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Don McClellan by phone at 801-538-7145, by FAX at 801-538-7126, or by Internet E-mail at dmccllellan@utah.gov
- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov
- ◆ Richard Clark by phone at 801-538-7150, by FAX at 801-538-7126, or by Internet E-mail at richardwclark@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 03/16/2011

Agriculture and Food, Regulatory
Services

R70-380

Grade A Condensed and Dry Milk
Products and Condensed and Dry
Whey

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

DAR FILE NO.: 34517

FILED: 03/16/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 4-3-2, Utah Dairy Act, is the authority to make and enforce rules concerning milk. This authority was used to adopt the federal "The Grade-A Condensed and Dry Milk Products and Condensed and Dry Whey Supplement #1 to the Grade A Pasteurized Milk ordinance". These are the uniform standards for the safe production of certain dairy products. Adherence to these standards allows them to market these products in other states and internationally.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to assure the safe production of certain dairy products and the legal marketing of them in other states and internationally. Therefore, this rule should be continued. This rule is supported by the dairy industry.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Don McClellan by phone at 801-538-7145, by FAX at 801-538-7126, or by Internet E-mail at dmccllellan@utah.gov
- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov
- ◆ Richard Clark by phone at 801-538-7150, by FAX at 801-538-7126, or by Internet E-mail at richardwclark@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 03/16/2011

DRAPER, UT 84020-9549
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Lori Worthington by phone at 801-545-5799, by FAX at 801-545-5702, or by Internet E-mail at lworthin@utah.gov

AUTHORIZED BY: Thomas Patterson, Executive Director

EFFECTIVE: 03/24/2011

Corrections, Administration
R251-104
 Declaratory Orders

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 34527
 FILED: 03/24/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is required by Title 63G, Chapter 4, the Utah Administrative Procedures Act, and is enacted under the authority of Section 63G-4-503.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Comments have not been received by the Department over the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The purpose of this rule is to define policy, procedures, and requirements governing the submission, review, and disposition of petitions for declaratory orders determining the applicability of statutes, rules, and orders within the jurisdiction of the Department. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR

Corrections, Administration
R251-712
 Release

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 34528
 FILED: 03/24/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Sections 64-13-7 where the Department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Section 64-13-10 where the Department is charged with establishing procedures for the appropriate assignment or transfer of public offenders to facilities or programs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Comments have not been received by the Department over the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The purpose of this rule is to provide the Department's policy regarding inmates leaving the institution on parole, termination, expiration of sentence, or being released to a detainer. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
CORRECTIONS
ADMINISTRATION
14717 S MINUTEMAN DR

DRAPER, UT 84020-9549
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Lori Worthington by phone at 801-545-5799, by FAX at 801-545-5702, or by Internet E-mail at lworthin@utah.gov

AUTHORIZED BY: Thomas Patterson, Executive Director

EFFECTIVE: 03/24/2011

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: 03/30/2011

Education, Administration
R277-513
Dual Certification

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34537
FILED: 03/30/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 53A-6-104(1) and (2) permit the Utah State Board of Education to issue licenses for educators. Subsection 53A-1-401(3) allows the Utah State Board of Education to adopt rules in accordance with its responsibilities.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides standards and procedures for educators to qualify for educator licenses in more than one academic area. Therefore, this rule should be continued.

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

Education, Administration
R277-716
Alternative Language Services for Utah Students

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 34538
FILED: 03/30/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

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

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides standards and procedures for necessary language acquisition services for Limited English Proficient and English Language Learner students. Therefore, this rule should be continued.

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

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

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

EFFECTIVE: 03/30/2011

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

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

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

EFFECTIVE: 03/30/2011

**Education, Rehabilitation
R280-204**

**Utah State Office of Rehabilitation
Employee Background Check
Requirement**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 34539
FILED: 03/30/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53A-24-103 places the Utah State Office of Rehabilitation under the policy direction of the Utah State Board of Education. Subsection 53A-1-401(3) authorizes the Utah State Board of Education to adopt rules and policies in accordance with its responsibilities.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides procedures for designated Utah State Office of Rehabilitation employees who have significant unsupervised access to clients to have criminal background checks in order to provide protection for clients. Therefore, this rule should be continued.

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

**Human Services, Administration
R495-862**

Communicable Disease Control Act

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 34536
FILED: 03/30/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-1-111 authorizes the Department to adopt rules necessary for the provision of social services.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There were no comments received during and since the last five-year review of this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule clarifies that the Department of Human Services will follow established public health guidelines and procedures to protect all staff, clients, and the community. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
ADMINISTRATION
ROOM DHS ADMINISTRATIVE OFFICE MULTI
STATE OFFICE BUILDING
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Julene Jones by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjones@utah.gov

AUTHORIZED BY: Palmer DePaulis, Executive Director

EFFECTIVE: 03/30/2011

Human Services, Substance Abuse
and Mental Health
R523-21

Division of Substance Abuse and
Mental Health Rules

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

DAR FILE NO.: 34540

FILED: 03/30/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-15-105 establishes the Division of Substance Abuse and Mental Health as the rule making body of the state for public substance abuse and mental health treatment. Subsection 62A-15-105(5) allows the division to develop program policies, standards, rules, and fee schedules for the division. This rule establishes standards for methadone treatment providers.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No public comment has been received by the division since the last time this rule was reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes minimum licensing and program standards for providers for methadone and other opioid treatment services. It also establishes a cooperative monitoring process between the division and methadone treatment providers that ensures quality services and allows take home treatment options for long distance clients. This rule was reviewed and modified by a broad-based group in

January of 2010. This current version reflects the input and wishes of Utah's methadone clinics, substance abuse treatment providers, and the division. Therefore, this rule should be continued.

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

HUMAN SERVICES
SUBSTANCE ABUSE AND MENTAL HEALTH
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Thom Dunford by phone at 801-538-4519, by FAX at 801-538-9892, or by Internet E-mail at tdunford@utah.gov

AUTHORIZED BY: Lana Stohl, Director

EFFECTIVE: 03/30/2011

Human Services, Recovery Services
R527-200
Administrative Procedures

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

DAR FILE NO.: 34529

FILED: 03/25/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-11-107 authorizes the Office of Recovery Services (ORS) to adopt, amend, and enforce rules as necessary to carry out its legal responsibilities listed in Title 62A, Chapter 11. This rule provides procedures for informal adjudicative proceedings as required by Section 63G-4-203. In accordance with Section 63G-4-302, this rule describes the possible one-time request for reconsideration during an informal adjudicative proceeding.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The statutes under which this rule is enacted are still in effect. This rule describes necessary procedures for informal adjudicative proceedings conducted by the Office of Recovery Services. This rule is necessary to explain the requirements of an informal adjudicative proceeding. In addition, the rule provides information on requesting and obtaining a hearing in an informal adjudicative proceeding when initiated with a notice of agency action; and the actions and conduct of hearings when a request is received. This rule explains that a request for reconsideration may be requested by a respondent or ORS once during an informal adjudicative proceeding. Lastly, this rule clarifies procedures for amending administrative orders and setting aside an administrative order. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Shancie Nance by phone at 801-536-8191, by FAX at 801-536-8833, or by Internet E-mail at snance@utah.gov

AUTHORIZED BY: Mark Brasher, Director

EFFECTIVE: 03/25/2011

Human Services, Recovery Services

R527-231

Review and Adjustment of Child Support Order

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 34522
FILED: 03/17/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-11-107 authorizes

the Office of Recovery Services (ORS) to adopt, amend, and enforce rules as necessary to carry out its legal responsibilities listed in Title 62A, Chapter 11. Sections 62A-11-320.5, 62A-11-320.6, and 78B-12-210 require that support orders for dependent children be reviewed and, if in the best interest of the child, adjusted. Rule R527-231 provides additional clarification by listing specific situations where a review and adjustment will or will not be pursued by ORS, and at what point in the process the review may be terminated.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule should be continued because the state and federal laws are still in effect which require review and adjustment processes for child support orders. In addition, this rule provides essential clarification and information relating to the procedures followed by ORS in implementing these legal requirements.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Shancie Nance by phone at 801-536-8191, by FAX at 801-536-8833, or by Internet E-mail at snance@utah.gov

AUTHORIZED BY: Mark Brasher, Director

EFFECTIVE: 03/17/2011

Human Services, Recovery Services

R527-936

Third Party Liability, Medicaid

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 34521
FILED: 03/17/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 26-19-1 through 26-19-19; Section 26-18-8; and Subsection 26-18-10(4) require the agency to promulgate rules to administer the Third Party Liability Program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed to continue the Third party Liability program required by the Medical Benefits Recovery Act, Title 26, Chapter 19. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Shancie Nance by phone at 801-536-8191, by FAX at 801-536-8833, or by Internet E-mail at snance@utah.gov

AUTHORIZED BY: Mark Brasher, Director

EFFECTIVE: 03/17/2011

Natural Resources, Parks and
Recreation
R651-401

Off-Highway Vehicle and Registration
Stickers

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 34531
FILED: 03/28/2011

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted under Section 41-22-3, Registration of Vehicles-Issuance of stickers and card-Proof of property tax payment-Records. Vehicles are defined in Section 41-22-2. This rule is required in that it allows the Division of Motor Vehicles to issue annual registration stickers which must be displayed on each off-highway vehicle (OHV) within Utah.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been submitted over the last five years that either support or oppose the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Division has a legal requirement for registration stickers to be displayed on any and each registered OHV within Utah. These stickers shall be mounted in a visible location to meet said requirements. Therefore, this rule should be continued. The Division has been informed, by peace officers, that the stickers mounted following the described requirements, are done so as to not hinder or deter the operation of an OHV.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

EFFECTIVE: 03/28/2011

Natural Resources, Parks and
Recreation
R651-405

Off-Highway Implement of Husbandry
Sticker Fee

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

DAR FILE NO.: 34532
FILED: 03/28/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted under Section 41-22-5.5, Off-Highway Husbandry Vehicles. This rule allows certain purposes of off-highway vehicles (OHVs) to be used for agricultural purposes within Utah. The fee is set by the Board with the amount not to exceed \$10.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been submitted over the last five years that either support or oppose the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Division has a legal requirement for an OHV implement of husbandry registration fee and a sticker to be displayed on any and each husbandry registered OHV within Utah. This sticker shall be mounted on the left side of the OHV in a visible location to meet said requirements. Therefore, this rule should be continued. The Division has been informed, by peace officers, that the mounted sticker is done so as to not hinder or deter the operation of an OHV.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy
Director

EFFECTIVE: 03/28/2011

Natural Resources, Parks and
Recreation
R651-406

Off-Highway Vehicle Registration Fees

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

DAR FILE NO.: 34533
FILED: 03/28/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted under Section 41-22-8, Registration Fees. This rule establishes a fee and any increase in fees requires legislative action. This rule also allows for the fee not be charged to a United States Government owned or operated off-highway vehicles (OHVs) within Utah. The fees are set by the Board with the amount not to exceed \$17 for registration, a \$3 fee for each duplicate registration card, and a \$5 fee for each duplicate registration sticker.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been submitted over the last five years that either support or oppose the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Division has a legal requirement to establish a registration fee for any and each registered OHV within Utah. This registration fee allows the Division to pursue and adopt a safety and education program, promote safety, and protection for people, the environment with the use and operation, and equipment associated with OHV, and to develop trails and other facilities for the use of OHVs. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Fred Hayes, Acting Operations Deputy Director

EFFECTIVE: 03/28/2011

**Public Safety, Fire Marshal
R710-6
Liquefied Petroleum Gas Rules**

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

DAR FILE NO.: 34520
FILED: 03/16/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Utah Liquefied Petroleum Gas Safety Act is authorized in Sections 53-7-301 through 53-7-316. In Section 53-7-305, the Liquefied Petroleum (LP) Gas Board is authorized to make rules as reasonably necessary for the protection of the health, welfare, and safety of the public and persons using LP gas. The LP Gas Board is also authorized in Section 53-7-305 to make rules setting minimum general standards covering the design, construction, location, installation, and operation of equipment for storing, handling, transporting by tank or tank trailer, or using LP Gas.

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 written comments received since the last five-year review of this rule are as follows: 1) on 02/23/2009, the office received a concern written by David

Bell, Bell Brothers Oil Company, Coalville, Utah, expressing his concern of the proposed requirement that the LP gas companies need to provide proof of insurance was indeed unnecessary because liability insurance of a much greater amount is already always carried by all distributors; 2) on 06/16/2010, the office received a concern hand-written by Melvin G. Wetzel expressing his concern about the 03/15/2011 memo on non-retail dispensing systems. Mr. Wetzel expressed his concern that the LP gas lobbyists were out to make peoples lives too complicated by requiring these changes, and we already now have too many regulations in existence.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah Liquefied Petroleum Gas Safety Act was enacted by the 1987 Utah State Legislature to oversee those that professionally distributed, dispensed, transported, delivered, or installed LP gas systems in the State of Utah. This safety program has substantially lowered LP gas incidents across the State of Utah during the 24-year history of the program. This program should be extended for another five years for the continued safety it incurs by it's existence. Therefore, this rule should be continued. The two times that most LP gas incidents occur is when there is transferring of product or the problem of overfilling the LP gas container. This safety act has indeed lowered each of those concerns and made Utah a safer place to exist. The State Fire Marshal's Office does not disagree with the comments reported above. The first comment was with regard to liability insurance that was placed into the rule as a requirement because it is already carried by all distributors now. The second comment is just an opinion on how a person feels about government.

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

PUBLIC SAFETY
FIRE MARSHAL
ROOM 302
5272 S COLLEGE DR
MURRAY, UT 84123-2611
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Brent Halladay by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

AUTHORIZED BY: Brent Halladay, State Fire Marshal

EFFECTIVE: 03/16/2011

Regents (Board of), Administration
R765-649
Utah Higher Education Assistance
Authority (UHEAA) Privacy Policy

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

DAR FILE NO.: 34530
FILED: 03/25/2011

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53B-12-101 authorizes the Utah Higher Education Assistance Authority (UHEAA) to act as the guarantor in Utah of federal student loans. Prior to 07/01/2010, UHEAA guaranteed, funded, and serviced student loans for Utah students attending institutions of higher learning within and outside of Utah. UHEAA continues to own and service many of those loans of which the records contain personal identifying information. UHEAA's privacy policy and this rule are required to safeguard that personal information.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments on this rule have been received during the past five-year period.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Privacy policies are required for any business or agency that receives and maintains personally identifiable information in the course of business transactions. As such, this rule needs to continue for UHEAA since UHEAA conducts loan servicing activities as a major component of its operations. These activities include maintenance of records that contain personally identifiable information. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
REGENTS (BOARD OF)
ADMINISTRATION
BOARD OF REGENTS BUILDING, THE GATEWAY
60 SOUTH 400 WEST
SALT LAKE CITY, UT 84101-1284
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Ronell Crossley by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rcrossley@utahsbr.edu

AUTHORIZED BY: William Sederburg, Commissioner

EFFECTIVE: 03/25/2011

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their rules effective and enforceable after publication in the Utah State Bulletin. In the case of Proposed Rules or Changes in Proposed Rules with a designated comment period, the law permits an agency to file a notice of effective date any time after the close of comment plus seven days. In the case of Changes in Proposed Rules with no designated comment period, the law permits an agency to file a notice of effective date on any date including or after the thirtieth day after the rule's publication date. If an agency fails to file a Notice of Effective Date within 120 days from the publication of a Proposed Rule or a related Change in Proposed Rule the rule lapses and the agency must start the rulemaking process over.

Notices of Effective Date are governed by Subsection 63G-3-301(12), 63G-3-303, and Sections R15-4-5a and 5b.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Agriculture and Food

Animal Industry

No. 34343 (AMD): R58-1. Admission and Inspection of

Livestock, Poultry and Other Animals

Published: 02/01/2011

Effective: 03/24/2011

No. 34352 (AMD): R58-2. Diseases, Inspections and Quarantines

Published: 02/01/2011

Effective: 03/24/2011

Commerce

Occupational and Professional Licensing

No. 34409 (AMD): R156-22. Professional Engineers and Professional Land Surveyors Licensing Act Rule

Published: 02/15/2011

Effective: 03/24/2011

No. 34370 (AMD): R156-63a. Security Personnel Licensing Act Contract Security Rule

Published: 02/15/2011

Effective: 03/24/2011

Governor

Economic Development, Pete Suazo Utah Athletic Commission

No. 34407 (AMD): R359-1-301. Qualifications for Licensure

Published: 02/15/2011

Effective: 03/28/2011

No. 34366 (AMD): R359-1-501. Promoter's Responsibilities in Arranging a Contest

Published: 02/15/2011

Effective: 03/28/2011

No. 34408 (AMD): R359-1-501. Promoter's Responsibilities in Arranging a Contest

Published: 02/15/2011

Effective: 03/28/2011

Insurance

Administration

No. 34362 (NEW): R590-260. Utah Defined Contribution Risk Adjuster Plan of Operation

Published: 02/01/2011

Effective: 03/22/2011

Regents (Board Of)

University of Utah, Administration

No. 34387 (AMD): R805-2. Government Records Access and Management Act Procedures

Published: 02/15/2011

Effective: 03/24/2011

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, 2011 through April 01, 2011. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to Nancy Lancaster (801-538-3218), Mike Broschinsky (801-538-3003), or Kenneth A. Hansen (801-538-3777).

A copy of the Rules Index is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Administration</u>					
R13-3	Americans with Disabilities Act Grievance Procedures	34347	AMD	03/10/2011	2011-3/4
<u>Fleet Operations</u>					
R27-3	Vehicle Use Standards	34256	AMD	01/25/2011	2010-24/6
R27-4-11	Capital Credit or Reservation of Vehicle Allocation for Surrendered Vehicles	34257	AMD	01/25/2011	2010-24/7
AGRICULTURE AND FOOD					
<u>Administration</u>					
R51-3	Government Records Access and Management Act	34491	5YR	03/03/2011	2011-7/43
R51-4	ADA Complaint Procedure	34492	5YR	03/03/2011	2011-7/43
<u>Animal Industry</u>					
R58-1	Admission and Inspection of Livestock, Poultry and Other Animals	34343	AMD	03/24/2011	2011-3/7
R58-2	Diseases, Inspections and Quarantines	34352	AMD	03/24/2011	2011-3/13
<u>Marketing and Development</u>					
R65-8	Management of the Junior Livestock Show Appropriation	34489	5YR	03/03/2011	2011-7/44
<u>Plant Industry</u>					
R68-4	Standardization, Marketing, and Phytosanitary Inspection of Fresh Fruits, Vegetables, and Other Plant and Plant Products	34414	5YR	02/08/2011	2011-5/107
R68-7	Utah Pesticide Control Act	34488	5YR	03/02/2011	2011-7/44
R68-8	Utah Seed Law	34345	5YR	01/05/2011	2011-3/55
R68-18	Quarantine Pertaining to Karnal Bunt	34412	5YR	02/08/2011	2011-5/107
<u>Regulatory Services</u>					
R70-330	Raw Milk for Retail	34518	5YR	03/16/2011	Not Printed
R70-370	Butter	34519	5YR	03/16/2011	Not Printed
R70-380	Grade A Condensed and Dry Milk Products and Condensed and Dry Whey	34517	5YR	03/16/2011	Not Printed
R70-410	Grading and Inspection of Shell Eggs with Standard Grade and Weight Classes	34378	5YR	01/24/2011	2011-4/35
ALCOHOLIC BEVERAGE CONTROL					
<u>Administration</u>					
R81-1-29	Disclosure of Conflicts of Interest	34337	AMD	02/24/2011	2011-2/4
R81-1-30	Factors for Granting Licenses	34336	AMD	02/24/2011	2011-2/5
R81-3-13	Operational Restrictions	34340	AMD	02/24/2011	2011-2/6

COMMERCE

Consumer Protection

R152-11-9 Direct Solicitations 34100 AMD 02/07/2011 2010-20/4

Occupational and Professional Licensing

R156-1-102 Definitions 34323 AMD 02/24/2011 2011-2/7
 R156-3a Architect Licensing Act Rule 34396 5YR 01/31/2011 2011-4/35
 R156-9a Uniform Athlete Agents Act Rules 34499 5YR 03/10/2011 2011-7/45
 R156-22 Professional Engineers and Professional Land Surveyors Licensing Act Rule 34409 AMD 03/24/2011 2011-4/6
 R156-46b Division Utah Administrative Procedures Act Rule 34397 5YR 01/31/2011 2011-4/36
 R156-50 Private Probation Provider Licensing Act Rules 34282 NSC 01/06/2011 Not Printed
 R156-55c-102 Definitions 34338 AMD 02/24/2011 2011-2/10
 R156-60a Social Worker Licensing Act Rule 34310 AMD 02/10/2011 2011-1/6
 R156-60c Professional Counselor Licensing Act Rule 34339 AMD 02/24/2011 2011-2/12
 R156-60d Substance Abuse Counselor Act Rule 34395 5YR 01/31/2011 2011-4/37
 R156-63a Security Personnel Licensing Act Contract Security Rule 34370 AMD 03/24/2011 2011-4/12
 R156-63a-302f Qualifications for Licensure - Good Moral Character - Disqualifying Convictions 34360 NSC 01/26/2011 Not Printed
 R156-67 Utah Medical Practice Act Rule 34504 5YR 03/14/2011 2011-7/46
 R156-69 Dentist and Dental Hygienist Practice Act Rule 34283 AMD 02/07/2011 2011-1/8
 R156-69 Dentist and Dental Hygienist Practice Act Rule 34500 5YR 03/10/2011 2011-7/46
 R156-73 Chiropractic Physician Practice Act Rule 34503 5YR 03/14/2011 2011-7/47
 R156-78B Prelitigation Panel Review Rule 34215 AMD 01/10/2011 2010-23/4
 R156-83-306 Drugs Approved for Online Prescribing, Dispensing, and Facilitation 34237 AMD 01/10/2011 2010-23/14

Real Estate

R162-2a Utah Housing Opportunity Restricted Account 34223 NEW 01/08/2011 2010-23/15
 R162-2c-201 Licensing and Registration Procedures 34225 AMD 01/08/2011 2010-23/16
 R162-2c-203 Utah-Specific Education Certification 34226 AMD 01/08/2011 2010-23/19
 R162-2c-204 License Renewal 34227 AMD 01/08/2011 2010-23/23
 R162-12 Utah Housing Opportunity Restricted Account 34224 REP 01/08/2011 2010-23/25

COMMUNITY AND CULTURE

Housing and Community Development

R199-8 Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance 34135 AMD 01/13/2011 2010-21/5

Olene Walker Housing Trust Fund

R235-1 Olene Walker Housing Loan Fund (OWHLF) 34463 5YR 02/24/2011 2011-6/101

CORRECTIONS

Administration

R251-104 Declaratory Orders 34527 5YR 03/24/2011 Not Printed
 R251-712 Release 34528 5YR 03/24/2011 Not Printed

EDUCATION

Administration

R277-400 School Emergency Response Plans 34331 AMD 02/22/2011 2011-2/17
 R277-403-1 Definitions 34332 AMD 02/22/2011 2011-2/20
 R277-419 Pupil Accounting 34230 AMD 01/10/2011 2010-23/26
 R277-470-12 Charter School Oversight and Monitoring 34333 AMD 02/22/2011 2011-2/21
 R277-503-1 Definitions 34457 NSC 03/10/2011 Not Printed
 R277-510 Educator Licensing - Highly Qualified Assignment 34494 5YR 03/04/2011 2011-7/48
 R277-513 Dual Certification 34537 5YR 03/30/2011 Not Printed
 R277-520 Appropriate Licensing and Assignment of Teachers 34334 AMD 02/22/2011 2011-2/22

RULES INDEX

R277-602	Special Needs Scholarships - Funding and Procedures	34335	AMD	02/22/2011	2011-2/26
R277-716	Alternative Language Services for Utah Students	34538	5YR	03/30/2011	Not Printed
R277-733	Adult Education Programs	34231	AMD	01/10/2011	2010-23/31
R277-800-5	USDB or Student's District of Residence/Charter School as Designated LEA	34359	NSC	01/27/2011	Not Printed

Rehabilitation

R280-204	Utah State Office of Rehabilitation Employee Background Check Requirement	34539	5YR	03/30/2011	Not Printed
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ENVIRONMENTAL QUALITY

Drinking Water

R309-100-4	General	34112	AMD	02/03/2011	2010-20/51
R309-215-16	Groundwater Rule	34375	NSC	02/14/2011	Not Printed

Environmental Response and Remediation

R311-200	Underground Storage Tanks: Definitions	34270	AMD	02/14/2011	2010-24/19
R311-201	Underground Storage Tanks: Certification Programs and UST Operator Training	34271	AMD	02/14/2011	2010-24/23
R311-203	Underground Storage Tanks: Technical Standards	34272	AMD	02/14/2011	2010-24/27
R311-205	Underground Storage Tanks: Site Assessment Protocol	34275	AMD	02/14/2011	2010-24/30
R311-206	Underground Storage Tanks: Financial Assurance Mechanisms	34273	AMD	02/14/2011	2010-24/33
R311-207	Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks	34274	AMD	02/14/2011	2010-24/35
R311-212	Administration of the Petroleum Storage Tank Loan Fund	34269	AMD	02/14/2011	2010-24/38

FAIR CORPORATION (UTAH STATE)

Administration

R325-1	Utah State Fair Competitive Exhibitor Rules	34464	5YR	02/24/2011	2011-6/101
R325-2	Utah State Fair Commercial Exhibitor Rules	34465	5YR	02/24/2011	2011-6/102
R325-3	Utah State Fair Patron Rules	34466	5YR	02/24/2011	2011-6/103
R325-4	Interim Patrons Rules (Other Than Utah State Fair)	34467	5YR	02/24/2011	2011-6/103
R325-5	Interim Renters Rules (Other Than Utah State Fair)	34468	5YR	02/24/2011	2011-6/104

FINANCIAL INSTITUTIONS

Administration

R331-26	Ownership of Real Estate Other Than Property Used for Institution Business or Held as an Investment by Depository Institutions Subject to the Jurisdiction of the Department of Financial Institutions	34207	NEW	02/01/2011	2010-22/61
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Banks

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ABBREVIATIONS

AMD = Amendment
 CPR = Change in proposed rule
 EMR = Emergency rule (120 day)
 NEW = New rule
 EXD = Expired
 NSC = Nonsubstantive rule change
 REP = Repeal
 R&R = Repeal and reenact
 5YR = Five-Year Review

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<u>adjudicative proceedings</u> Natural Resources, Forestry, Fire and State Lands	34432	R652-8	5YR	02/14/2011	2011-5/115
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<u>adult education</u> Education, Administration	34231	R277-733	AMD	01/10/2011	2010-23/31
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