UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed October 16, 2009, 12:00 a.m. through November 02, 2009, 11:59 p.m.

Number 2009-22
November 15, 2009

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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 801-538-1773. 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

Utah state bulletin.
Semimonthly.
1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.
I. Utah. Office of Administrative Rules.

KFU440.A73S7
348.792'025--DDC 85-643197

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SPECIAL NOTICES

Health
Health Care Financing, Coverage and Reimbursement Policy

Notice for December 2009 Medicaid Rate Changes

Effective December 1, 2009, 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. It is not anticipated that these rate changes will have a substantial fiscal impact. All rate changes are posted to the web and can be viewed at: http://health.utah.gov/medicaid/stplan/bcrp.htm

End of the Special Notices Section

NOTICES OF
PROPOSED RULES

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 October 16, 2009, 12:00 a.m., and November 02, 2009, 11:59 p.m. are included in this, the November 15, 2009 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 December 15, 2009. 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 March 15, 2010, the agency may notify the Division of Administrative Rules that it wants to make the **Proposed Rule** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **Change in Proposed Rule** in response to comments received. If the Division of Administrative Rules does not receive a **Notice of Effective Date** or a **Change in Proposed Rule**, the **Proposed Rule** lapses 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

Administrative Services, Finance
R25-10
State Entities' Posting of Financial Information to the Utah Public Finance Website

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 33101
FILED: 10/26/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish procedures related to the posting of financial data to the Utah Public Finance Website by participating state entities.

SUMMARY OF THE RULE OR CHANGE: A description of revenue, expense, and employee compensation data required from state entities is defined as well as procedures and requirements for data submission.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63A-3-404

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The cost of extracting and preparing data will vary depending upon the size of the entity and their particular systems. The Division estimates that smaller entities such as Davis Applied Technology Center may be able to comply with the requirements of data submission for as little as $10,000 while larger entities like the University of Utah may require resources of up to $100,000 or more. The resources needed will mainly be staff time to prepare the data for submission.
♦ LOCAL GOVERNMENTS: The Transparency Board has not yet defined the requirements for local government transparency compliance. Board policies for the posting of local government financial data will be put forth at a later date.
♦ SMALL BUSINESSES: The legislative directive applies only to government and political subdivisions.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The legislative directive applies only to government and political subdivisions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The legislative directive applies only to government and political subdivisions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will not have any impact on business.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Marilee Richins by phone at 801-538-3450, by FAX at 801-538-3244, or by Internet E-mail at mprichins@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: Kimberly Hood, Executive Director

R25. Administrative Services, Finance.
R25-10. State Entities' Posting of Financial Information to the Utah Public Finance Website.
R25-10-1. Purpose.
The purpose of this rule is to establish procedures related to the posting of the participating state entities' financial information to the Utah Public Finance Website (UPFW).

R25-10-2. Authority.
This rule is established pursuant to Subsection 63A-3-404, which authorizes the Division of Finance to make rules governing the posting of financial information for participating state entities on the UPFW after consultation with the Utah Transparency Advisory Board.

R25-10-3. Definitions.
(1) "Utah Public Finance Website" (UPFW) means the website created in UCA 63A-3-402 which is administered by the Division of Finance and which permits Utah taxpayers to view, understand, and track the use of taxpayer dollars by making public financial information available on the internet without paying a fee.
(2) "Participating state entities" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions, including institutions of higher education such as colleges, universities, and the Utah College of Applied Technology.
(3) "Division" means the Division of Finance of the Department of Administrative Services.

R25-10-4. Public Financial Information.

(1) Participating state entities shall submit detail revenue and expense transactions from their general ledger accounting system to the UPFW at least quarterly and within one month after the end of the fiscal quarter. The detail transactions for all participating state entities that are recorded in the central general ledger of the State, FINET, shall be submitted by the Division.

(2) Participating state entities will submit employee compensation detail information on a basis consistent with its fiscal year to the UPFW at least once per year and within three months after the end of the fiscal year. The employee compensation detail information that is recorded in the central payroll system of the State that is operated by the Division will be submitted by the Division.

(a) Employee compensation detail information will, at a minimum, break out the following amounts separately for each employee:

(i) Total wages or salary

(ii) Total benefits only, benefit detail is not allowed

(iii) Incentive awards

(iv) Reimbursements

(v) Leave paid, if recorded separately from wages or salary in the participating state entity's payroll system.

(b) In addition, the following information will be submitted for each employee:

(i) Name

(ii) Hourly rate

(iii) Gender

(iv) Job title

(3) Entities must not submit any data to the UPFW that is classified as private, protected, or controlled by UCA 63G-2, Government Records Management Act. All detail transactions or records are required to be submitted; however, the words "not provided" shall be inserted into any applicable data field in lieu of private, protected, or controlled information.

R25-10-5. UPFW Data Submission Procedures.

(1) Entities must submit data to the UPFW according to the file specifications listed below.

(a) The public financial information required in R25-10-4 will be submitted to the UPFW in a pipe delimited text file. The detail file layout is available from the Division and is posted on the UPFW under the Helps and FAQs tab.

(b) Data will be submitted to the UPFW at the detail transaction level. However, the detailed transactions for compensation information for each employee may be summarized into transactions that represent an entire fiscal year.

(c) Each transaction submitted to the website must contain the information required in the detail file layout including:

(i) Organization - Categorizes transactions within the entity's organization structure. At least 2 levels of organization will be submitted but not more than 10 levels.

(ii) Category - Categorizes transactions and further describes the transaction type. At least 2 levels of category will be submitted but not more than 7 levels.

(iii) Fund - Categorizes transactions by fund types and individuals funds. At least 1 but not more than 4 levels of fund will be submitted.

KEY: Utah Public Financial Website, transparency, state employees, finance
Date of Enactment or Last Substantive Amendment: 2009
Authorizing, and Implemented or Interpreted Law: 63A-3-404

Agriculture and Food, Plant Industry
R68-7
Utah Pesticide Control Act

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33080
FILED: 10/21/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendment will eliminate the need for category testing for private pesticide applicators, and implement national container/containment regulations.

SUMMARY OF THE RULE OR CHANGE: The change is made to encourage private pesticide applicators to obtain pesticide training and licensure by eliminating specific examination requirements. Increased pesticide training and reduction in pesticide examination requirements will help farmers in tough economic times while maintaining the integrity of the program.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 40 CFR Part 152 Subpart A Section 152.3 and 40 CFR Part 165 Subparts A through E and Section 4-14-6

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: This is only a modification in an existing program so there will be no cost to the state budget.

♦ LOCAL GOVERNMENTS: This is a state-funded and implemented program. Local government is not involved in the regulation of this program so there is no cost to local government

♦ SMALL BUSINESSES: This rule change will make it easier for farmers and small business to obtain a private applicators license. The cost will remain the same, but the procedure will be easier.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule change will make it easier for farmers to obtain a private applicator's license. The cost will remain the same, but the procedure will be easier.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no increase compliance cost for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will be a benefit to small businesses and farmers on meeting the minimum requirements for obtaining a private/restricted use pesticide license. Environmental impacts will not be minimized and the state will still be in full compliance with EPA requirements. The rule change does not have any fiscal impact on private business, state or local government.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Clair Allen by phone at 801-538-7180, by FAX at 801-538-7189, or by Internet E-mail at clairallen@utah.gov
♦ Clark Burgess by phone at 801-538-9929, by FAX at 801-538-7126, or by Internet E-mail at cburgess@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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: Leonard Blackham, Commissioner

R68. Agriculture and Food, Plant Industry.
R68-7. Utah Pesticide Control Act.
R68-7-6. Categorization of Pesticide Applicators.

Commercial and Non-commercial [~~A~~]applicators shall be categorized in one or more of the categories defined below, based on the application site and the type of work they perform.

(1) Agricultural Pest Control.

(a) Plant. This category includes applicators using pesticides to control pests in the production of agricultural crops including, but not limited to, field crops, vegetables, fruits, pasture, rangelands, and non-crop agricultural lands.

(b) Animal. This category includes applicators using pesticides on animals including, but not limited to, beef and dairy cattle, swine, sheep, horses, goats, poultry, and to places on or in which animals inhabit. Doctors of veterinary medicine or their employees engaged in the business of applying pesticides for hire, publicly representing themselves as pesticide applicators or engaged in large-scale use of pesticides, are included in this category.

(2) Forest Pest Control. This category includes applicators using pesticides in forests, forest nurseries, and forest seed-producing areas.

(3) Ornamental and Turf Pest Control. This category includes applicators using pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers and turf. This includes controlling pests on home foundations, sidewalks, driveways, and other similar locations.

(4) Seed Treatment. This category includes applicators using pesticides on seeds.

(5) Aquatic Pest Control.

(a) Surface Water: This category includes applicators applying pesticides to standing or running water, excluding applicators engaged in public health-related activities included in R68-7-6(8).

(b) Sewer Root Control: This category includes applicators using pesticides to control roots in sewers or in related systems.

(6) Right-of-Way Pest Control. This category includes applicators using pesticides in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way, or other similar areas.

(7) Structural and Health-related Pest Control. This category excludes any fumigation pesticide application and is limited to applicators using pesticides in, on, or around food handling establishments; human dwellings; institutions, such as schools and hospitals; industrial establishments, including warehouses, storage units and any other structures and adjacent areas, public or private; to control household pests, fabric pests, and stored-product pests and to protect stored, processed and manufactured products. This category includes vertebrate pest control in and around buildings and allows for applications up to three feet from the structure.

(8) Public Health Pest Control. This category includes applicators applying the use of pesticides [~~in public- health programs~~]for the management and control of pests having medical and public-health importance. This category includes mosquitoes, ticks, bedbugs, louse, and fleas.

(9) Regulatory Pest Control.

(a) This category is limited to state and federal[~~,~~] employees or persons under their direct supervision, who apply pesticides in a mechanical ejection device, or other methods to control regulated pests.

(b) This category is limited to state and federal[~~,~~] employees or persons under their direct supervision, who apply pesticides in a protective collar, or other methods to control regulated pests.

(10) Demonstration, Consultation and Research Pest Control. This category includes individuals who demonstrate or provide instruction to the public in the proper use, techniques, benefits and methods of applying restricted-use pesticides. This category includes, but is not limited to agricultural compliance specialists, extension personnel, commercial representatives, consultants and advisors, and persons conducting field research with restricted-use pesticides. In addition, they shall meet the specific standards that may be applicable to their particular activity.

(11) Aerial Application Pest Control. This category includes applicators applying pesticides by aircraft. Aerial applicators are required to be certified in the Aerial-Application Pest-Control Category and any other categories of intended application.

(12) Vertebrate Animal Pest Control. This category includes applicators applying pesticides in the control of vertebrate pests outdoors, such as rodents, birds, bats, predators or domestic animals.

(13) Fumigation/Stored-Commodities Pest Control. This category includes applicators using fumigants to control pests in soils, structures, railroad cars, stored grains, manufactured products, grain elevators, flour mills, and similar areas and items.

(14) Wood-Preservation Pest Control. This category includes applicators who apply wood-preservative pesticides to wood products, such as fence posts, electrical poles, railroad ties, or any other form of wood products.

(15) Wood-Destroying Organisms Pest Control. This category includes applicators using pesticides to control termites, carpenter ants, wood-boring or tunneling insects, bees, wasps, wood-decaying fungi and any other pests destroying wood products.

R68-7-8. Certification Procedures.

(A) Commercial Applicators.

(1) License Required. No person shall apply any pesticide for hire or compensation to the lands of another at any time without becoming certified and obtaining a commercial applicator's license and a pesticide applicator business license as described in 4-14-13 issued by the department, or working for a company which has already attained such business license.

(2) The pesticide applicator business fee will be determined by the number of commercial pesticide applicators employed by the business. The fee ranges are 1-4 commercial pesticide applicators, 2-5 commercial pesticide applicators and 10 or more commercial pesticide applicators.

Application for such licenses shall be made in writing on an approved form obtained from the department and shall include such information as prescribed by the department. Each individual performing the physical act of applying pesticides for hire or compensation must be licensed. An applicator and business license fee determined by the department, pursuant to Subsection 4-2-2(2), shall be assessed at the time of certification and recertification.

(3) Written Examination. An applicant for a commercial pesticide license shall demonstrate competency and knowledge of pesticide applications by passing the appropriate written examinations. Examination and educational-material fees determined by the department, pursuant to Subsection 4-2-2(2), shall be assessed at the time of certification and recertification. Any person applying to become certified or recertified must demonstrate the ability to: (a) read and understand three or more sets of pesticide label directions from pesticide containers randomly chosen by division personnel, and (b) demonstrate competency and knowledge of mixing and applying pesticides in a safe way. All applicants for a commercial applicator license must pass the general examination and the examination(s) pertaining to the category(s) for which they desire to be licensed. Certification examinations shall be conducted by representatives of the commissioner by appointment. A score of 70 or above is required to pass any written examination. A score of less than 70 on the general standards or category examinations shall result in denial of certification of that test. A person must pass the general and at least one category examination before becoming certified. An applicant scoring less than 65% on any examination must wait three days before retesting on that examination. A person scoring from 65% to 69% may retake the test again the same day, schedule permitting.

(4) License Issuance. If the department finds the applicant qualified to apply pesticides in the classifications applied for and for which the prescribed fee(s) have been paid, the department shall issue a commercial applicator's license. The license shall expire December 31 of each year unless it has been revoked or suspended prior by the commissioner for cause, which may include any of the unlawful acts given in R68-7-11. If an application for a commercial license is denied the applicant shall be informed of the reason. The applicator is required to have their license in their immediate possession at all times when making a pesticide application. If the applicator requests a duplicate license from the Department of Agriculture and Food, a fee determined by the department pursuant to Subsection 4-2-2(2), must be paid before a replacement license will be issued. A pesticide applicator business license shall be required for each pesticide business location with applicators working in the state.

(5) Any new applicator or applicator business license licensing after November 1 will be licensed for the remainder of that year and the following calendar year.

(6) License Renewal, Recertification.

(a) A license will be renewed without examination if the renewal notice is received by the Utah Department of Agriculture and Food of prior to January 1 of any year.

(b) If the renewal notice is received after January 1 but before [~~(~~]March 1[~~)~~], individuals will be required to pay the late fee, and no re-examination will be required.

(c) If the renewal notice is received after March 1, individuals will be required to recertify according to the original pesticide-applicator certification procedures.

Each license shall expire on December 31 of the year of its issuance. Commercial applicators may voluntarily pay a triennial license fee in lieu of the annual license fee. Commercial applicators must recertify every three years, and be subject to re-examination at any time. Information that may be required to insure a continuing level of competence and ability to use pesticides safely and properly due to changing technology, and to satisfy certification requirements as described herein, or meet any other requirements specified by the commissioner shall be added to this rule as often as necessary.

(d) Recertification options:

(i) Complete the original certification process of taking the required general and category test(s) and passing each required test with a score of 70% or above or;

(ii) Attend approved recertification courses and pass the required category examinations with a score of 70% or above or;

(iii) Participate in approved continuing education courses and accumulate 24 credits during the valid three years of certification.

(7) Records Maintained. Commercial applicators shall keep and maintain records of each pesticide application. These records must be recorded within 24 hours after the pesticide application is made. These application records must include the following information:

(a) Name and address of property owner;

(b) Location of treatment site, if different from (a);

(c) The month, day and year when the pesticide was applied;

(d) Brand name of pesticide, EPA registration number, rate of pesticide applied per unit area and total amount of pesticide used;

(e) Purpose of application;

(f) The name, address and license number of the certified applicator who applied the pesticide.

Such records shall be kept for a period of two years from the date of application of the pesticide and shall be available for inspection by the commissioner's designee at reasonable times. The commissioner's designee shall, upon request, be furnished a copy of such records by the commercial applicator.

(8) Exemption.

The provisions of this section relating to licenses and requirements for their issuance do not apply to a person applying pesticides for his neighbors provided he operates and maintains pesticide application equipment for his own use, is not engaged in the business of applying pesticides for hire or compensation, does not publicly represent himself as a pesticide applicator, and operates his pesticide application equipment only in the vicinity of his owned or rented property for the accommodation of his neighbors; provided, however, that when such persons use a restricted-use pesticide, they shall comply with the certification requirements specified herein.

(B) Non-Commercial Applicators.

(1) License Required. No non-commercial applicator shall use or demonstrate the use of any restricted-use pesticide without becoming certified and obtaining a non-commercial applicator's license issued by the department. Application for such license shall be made in writing on an approved form obtained from the department and shall include such information as [~~is~~]prescribed by the department. Each individual performing the physical act of applying restricted-use pesticides must be licensed.

(2) Written Examination. An applicant for a non-commercial pesticide license shall demonstrate to the department competency and knowledge of pesticides and their applications by passing the appropriate written examinations. Examination and educational-material fees determined by the department pursuant to Subsection 4-2-2(2), shall be assessed at the time an individual takes the general and category tests. All applicants for a non-commercial applicator license must successfully pass a general examination based upon standards applicable to all categories. After passing the general examination, applicants must pass the examination(s) pertaining to the category(s) for which they desire to be licensed. Certification examinations shall be conducted by representatives of the commissioner by appointment. A score of 70 percent or above is required for passing any written examination. A score of less than 70 percent on the general or category examinations shall result in denial of certification in that category. A person must pass the general and at least one category examination before becoming certified. An applicator scoring less than 65 percent on any examination must wait three days before retesting on that examination. A person scoring from 65% to 69% may retake the test again the same day, schedule permitting. Any person applying to become certified or recertified must demonstrate the ability to: (a) read and understand three or more sets of pesticide label directions from pesticide containers randomly chosen by division personnel, and (b) demonstrate competency and knowledge of mixing and applying pesticides in a safe way.

(3) License Issuance. If the department finds the applicant qualified to apply pesticides in the classification(s) applied for, the department shall issue a non-commercial applicator's license limited to such activities and classifications applied for. A prescribed examination and educational material fees shall be required. The applicator is required to have his/her license in his/her immediate possession at all times when making a pesticide application.

If the applicator requests a duplicate license from the Department of Agriculture and Food, a fee as determined by the department pursuant to Subsection 4-2-2(2), must be paid before a replacement license will be issued. The license shall expire December 31, three calendar years after the issuance of the certification, unless it has been suspended or revoked by the commissioner for cause, which may include any of the unlawful acts given in R68-7-11. If an application for a non-commercial license is denied the applicant shall be informed of the reason.

(4) Any new applicator licensing after November 1 will be licensed for the remainder of that year and the following calendar year.

(5) License Renewal, Recertification. Non-commercial applicators must recertify every three years, and be subject to re-examination at any time. Information [~~that~~]may be required to insure a continuing level of competence and ability to use pesticides safely and properly due to changing technology, and to satisfy[~~ing~~] certification requirements as described herein, or any other requirements specified by the commissioner shall be added to this rule as often as necessary.

Recertification options are:

(a) Complete the original certification process of taking the required general and category test(s) and passing each required test with a score of 70% or above or;

(b) Attend approved recertification courses and pass the required category test(s) with a score of 70% or above or;

(c) Participate in approved continuing education courses and accumulate 24 credits during the valid three years of certification.

(6) Records Maintained. Non-commercial applicators shall keep and maintain records of each application of any restricted-use pesticide[~~s~~]. These application records must be recorded within 24 hours after the pesticide application is made. These records must include the following information:

(a) Name and address of property owner;

(b) Location of treatment site, if different from (a);

(c) The month, day and year when the pesticide was applied;

(d) Brand name of pesticide, EPA registration number, rate of pesticide applied per unit area, and total amount of pesticide used;

(e) Purpose of application;

(f) The name, address, and license number of the certified applicator who applied the pesticide.

Such records shall be kept for a period of two years from the date of application of the pesticide and shall be available for inspection by the commissioner's designee at reasonable times. The commissioner's designee shall, upon request, be furnished a copy of such records by the non-commercial applicator.

(7) Exemption. The provisions of this section shall not apply to persons conducting laboratory research involving restricted-use pesticides as drugs or medication during the course of their normal practice. Non-Commercial applicators engaged in public-health related activities are exempt from recording the name and address of property owners, but are required to document a detailed description of treatment areas by using such means as GPS

coordinates or other locality descriptions for record keeping purposes.

(C) Private Applicators.

(1) License Required. No private applicator shall purchase, use or supervise the use of any restricted-use pesticide without a private applicator's license issued by the department. Issuance of such license shall be conditioned upon the applicator's complying with the certification requirements determined by the department as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons. Application for a license shall be made in writing on a designated form obtained from the department.

(2) Certification Methods. Any person applying to become licensed must demonstrate the ability to: (a) read and understand three or more sets of pesticide label directions from pesticide containers randomly chosen by division personnel, and (b) demonstrate competency and knowledge of mixing and applying pesticides in a safe way. All first-time Private Applicators must successfully pass a written test. A score of 70 percent or above is required for passing any written test. A score of less than 70 percent will result in the denial of certification. [~~A person must pass the general and at least one category examination before becoming certified.~~]An applicator scoring less than 65% on any examination must wait three days before retesting on that examination. A person scoring from 65% to 69% may retake the test again the same day, schedule permitting.

(3) Emergency-Use Permit. A single restricted-use pesticide may be purchased and used by a non-certified person on a one-time-only basis if an emergency control situation is shown to exist. Before purchasing the product, the applicant shall participate in a discussion concerning safe use of the specific product with a representative of the Utah Department of Agriculture and Food. Following an adequate discussion of same, the Department of Agriculture and Food may issue the applicant a permit to purchase and use the product on a specific site on a one-time-only basis. The applicant shall be required to become certified before being authorized to further purchase and use restricted-use pesticides.

(4) License Issuance. If the department finds the applicant qualified to apply pesticides, the applicant shall be issued a private applicator's license. Examination and educational-material fees determined by the department pursuant to Subsection 4-2-2(2), shall be assessed at the time of certification and recertification. The license issued by the commissioner shall expire on December 31, three calendar years after issuance, unless the license has been revoked or suspended by the commissioner. If an application for a private license is denied, the applicant shall be informed of the reason. If the applicator requests [~~replacement~~]a duplicate license from the Department of Agriculture and Food, a fee determined by the department pursuant to Subsection 4-2-2(2), must be paid before a replacement license will be issued.

(5) Any new applicator licensing after November 1 will be licensed for the remainder of that year and the following calendar year.

(6) License Renewal, Recertification. A person applying to recertify must demonstrate the ability to: (a) read and understand three or more sets of pesticide label directions from pesticide containers randomly chosen by division personnel, and (b) demonstrate the mixing and application of pesticides in a safe way. All certified private applicators must recertify every three years, or more frequently if determined necessary by the department, by satisfying any of the following procedures or any other requirements specified by the department.

(a) Completion of a recertification course approved by the Utah Department of Agriculture and Food and passing a written test with a score of 70% or above or;

(b) Complete the original certification process of taking the required [~~general and category~~]written test(s). A score of 70 percent or above is required to pass or;

(c) Accumulate nine credits of approved continuing education during the valid three years of certification.

(D) Employees of Federal Agencies. Federal Government Employees wishing to be certified in Utah shall be required to qualify as non-commercial applicators by passing the appropriate examinations, unless such requirement is waived upon presentation of adequate evidence of certification in the appropriate categories from another state with comparable certification requirements. In the event a federal agency develops an applicator certification plan which meets the Utah certification standards, employees of that agency who become certified under that plan may qualify for certification in the State of Utah.

(E) Certification of Out-of-State Applicants.

When a pesticide applicator is certified under an approved state plan of another state and desires to apply pesticides in Utah, he/she shall make application to the department and shall include, along with the proper fee and any other details required by the Act or these rules, a true copy of his credentials as proof of certification in the person's state of residence and a letter from that state's department of agriculture stating that he/she has not been convicted of a violation of any pesticide law and is currently licensed as a pesticide applicator in that state. The department may upon review of the credentials, issue a Utah certification to the applicator in accordance with the use situations for which the applicator is certified in another state without requiring determination of competency; provided that the state having certified the applicator will similarly certify holders of Utah licenses or certificates and has entered into a reciprocal agreement with the State of Utah. Out-of-state pesticide applicators who operate in Utah will be subject to all Utah laws and rules.

R68-7-9. Dealer Licensing.

(A) In order to facilitate rules of the distribution and sale of restricted-use pesticides, it is necessary to license dealers who dispense such materials.

(1) License Required.

It shall be unlawful for any person to act in the capacity of a restricted-use pesticide dealer, or advertise as, or presume to act as such a dealer at any time without first having obtained an annual license from the department. A license shall be required for each location or outlet located within this state from which such pesticides are distributed; provided, that any manufacturer, registrant or distributor who has no pesticide dealer outlet licensed within this state and who distributes a restricted-use pesticide directly into this state shall obtain a pesticide dealer's license for his principal out-of-state location or outlet; provided further, that any manufacturer, registrant or distributor who sells only through or to a pesticide dealer is not required to obtain a pesticide dealer's license.

(2) License Issuance. Application for a pesticide dealer's license shall be on a form prescribed by the department and shall be

accompanied by a license fee determined by the department pursuant to subsection 4-2-2(2). If the department finds the applicant qualified to sell or distribute restricted-use pesticides and the applicant has paid the prescribed license fee, the department shall issue a restricted-use pesticides dealer's license. Pesticide dealers may voluntarily pay a triennial license fee in lieu of the annual license fee. This license shall expire December 31 of each year, unless it has been previously revoked or suspended by the commissioner for causes which may include any of the unlawful acts included in R68-7-11.

(3) License Renewal. License-renewal fees are payable annually before January 1. Pesticide dealers may voluntarily pay a triennial license fee in lieu of the annual license fee. If the renewal of a pesticide dealer's license is not received prior to January 1 of any one year, an additional fee determined by the department pursuant to Subsection 4-2-2(2), shall be assessed and added to the original license fee and shall be paid by the applicant before the license renewal shall be issued.

(4) Records Maintained. Each dealer outlet licensed to sell restricted-use pesticides shall be required by the department to maintain a restricted-use pesticide sales register by entering all restricted-use pesticide sales into the register at the time of sale. A register form, provided by the department, shall include the following information:

(a) The name and address of the purchaser.

(b) Brand name of restricted-use pesticide purchased.

(c) EPA registration number of restricted-use pesticide purchased.

(d) Month, day and year of purchase.

(e) Quantity purchased.

(f) Signature and license number of the purchaser, [~~pesticide category, -~~]expiration date of license, or signature of purchaser's agent (uncertified person) if letter of authorization is on file. Letter of authorization must include names of agents, signature and license number of purchaser.

Such records shall be kept for a period of two years from the date of restricted-use pesticide sale and shall be available for inspection by the commissioner's designee at reasonable times. The commissioner's designee, upon request, shall be furnished a copy of such records by the restricted-use pesticide dealer.

(5) Exemption. Provisions of this section shall not apply to: (a) a licensed pesticide applicator who sells restricted-use pesticides only as an integral part of his pesticide application service when such pesticides are dispensed only through equipment used for such pesticide application (b) Federal, state, county, or municipal agency which provide restricted-use pesticides only for its own programs shall be exempt from the license fee but must meet all other requirements of a pesticide dealer.

(6) Responsible for Acts of Employees. Each pesticide dealer shall be responsible for the acts of each person employed by him in the solicitation and sale of restricted-use pesticides and all claims and recommendations for use of restricted-use pesticides. A dealer's license shall be subject to denial, suspension or revocation for any violation of the Pesticide Control Act or rules promulgated thereunder, whether committed by the dealer or by the dealer's officer, agent, or employee.

R68-7-10. Transportation, Storage and Disposal of Pesticides and Pesticide Containers.

(1) No person shall transport, store, or dispose of any pesticide or pesticide containers in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects or to pollute any waterway in a manner harmful to any wildlife therein.

(2) In accordance with State of Utah Agricultural Code, the Utah Department of Agriculture and Food hereby adopts the applicable portions of 40 CFR Part 152 Subpart A Section 152.3 and Part 165, Subparts A through E.

R68-7-11. Unlawful Acts.

Any person who has committed any of the following acts is in violation of the Utah Pesticide Control Act or rules promulgated thereunder and is subject to penalties provided for in Sections 4-2-2 through 4-2-15:

(1) Made false, fictitious, or fraudulent claims, written or spoken[~~through any media~~] misrepresenting the use, effect of pesticides, certification of applicator, or methods to be utilized;

(2) Applied known ineffective or improper pesticides;

(3) Operated in a faulty, careless or negligent manner;

(4) Neglected or, after notice, refused to comply with the provisions of the Act, these rules or of any lawful order of the department;

(5) Refused or neglected to keep and maintain records required by these rules, or to make reports when and as required;

(6) Made false or fraudulent records, invoices or reports;

(7) Engaged in the business of applying a pesticide for hire or compensation on the lands of another without having a valid commercial applicator's license;

(8) Used, or supervised the use of, a pesticide which is restricted to use by "certified applicators" without having qualified as a certified applicator;

(9) Used fraud or misrepresentation in making application for, or renewal of, a registration, license, permit or certification;

(10) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license or permit;

(11) Used or caused to be used any pesticide in a manner inconsistent with its labeling or rules of the department if those rules further restrict the uses provided on the labeling;

(12) Aided or abetted a licensed or an unlicensed person to evade the provisions of the Act; conspired with such a licensed or an unlicensed person to evade the provisions of the Act; or allowed one's license or permit to be used by another person;

(13) Impersonated any federal, state, county, or other government official;

(14) Distributed any pesticide labeled for restricted use to any person unless such person or his agent has a valid license, or permit to use, supervise the use, or distribute restricted-use pesticide;

(15) Applied pesticides onto any land without the consent of the owner or person in possession thereof; except, for governmental agencies which must abate a public health problem.

(16) For an applicator to apply a termiticide at less than label rate or inconsistent with rules of the department if those rules further restrict the uses provided on the labeling.

(17) For an employer of a commercial or non-commercial applicator to allow an employee to apply pesticide before that individual has successfully completed the prescribed pesticide certification procedures.

(18) For a pesticide applicator not to have his/her current license in his/her immediate possession at all times when making a pesticide application.

(19) To allow an application of pesticide to run off, or drift from the target area to cause plant, animal, human or property damage.

(20) Refused or neglected to register a pesticide applicator business with the Utah Department of Agriculture and Food.

(21) To handle or apply any registered pesticide for which the person does not have an appropriate, complete, or legible label at hand.

(22) Refused or neglected to comply with the Federal Container and Containment regulations.

KEY: inspections, pesticides
Date of Enactment or Last Substantive Amendment: [~~March 26~~], 2009
Notice of Continuation: March 16, 2006
Authorizing, and Implemented or Interpreted Law: 4-14-6

Agriculture and Food, Regulatory Services
R70-101
Bedding, Upholstered Furniture and Quilted Clothing

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33074
FILED: 10/21/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is grammatical housekeeping, a reference change, and description clarification.

SUMMARY OF THE RULE OR CHANGE: There are grammatical housekeeping changes. A reference change as the National Association of Bedding and Law Officials changed to an International Association several years ago (IABFLO), and minor description clarifications to create consistency from one section to another within the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-10-3

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The state budget for this program will stay the same as it is currently established. There are no additional costs or savings to the program as there are no new requirements or deletions to the rule.
♦ LOCAL GOVERNMENTS: There will be no cost or savings to local governments as they do not inspect or control any bedding, upholstered furniture, or quilted clothing items, because local government does not inspect these items.
♦ SMALL BUSINESSES: No changes in cost or savings to these groups will occur because there are no changes to the way business is already being conducted.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no additional cost associated with this amendment. This is only for grammatical housekeeping changes and also a reference change as the National Association of Bedding and Law Officials changed to an International Association several years ago. Also minor description clarifications to create consistency from one section to another within the rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs will remain the same for all affected persons as there is no new requirement or subtractions to the rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Fiscal impact of the rule on businesses will not change because there have been no financial modification requests to this rule

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:
♦ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
♦ Michelle Jack by phone at 801-538-7151, by FAX at 801-538-4949, or by Internet E-mail at mjack@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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2009

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2010

AUTHORIZED BY: Leonard Blackham, Commissioner

R70. Agriculture and Food, Regulatory Services.
R70-101. Bedding, Upholstered Furniture and Quilted Clothing.
R70-101-2. General Requirements.

A. These rules shall apply to all persons, partnerships, corporations, limited liability companies, and associations engaged in the business of manufacturing, retailing, wholesaling, processing, repairing, and selling items of bedding, upholstered furniture, quilted clothing, and filling materials. These rules do not apply to persons who make or renovate upholstered furniture, clothing or bedding for their own use.

B. Foreign, out-of-state articles or materials sold in Utah. This rule shall apply to bedding, upholstered furniture, quilted clothing, and filling materials sold in Utah regardless of their point of origin.

R70-101-3. Definitions.

A. "Manufacture" means to make, process, or prepare from new or secondhand material, in whole or in part, any bedding, upholstered furniture, quilted clothing, or filling material for sale; but does not include isolated sales of such articles by persons who are not primarily engaged in the making, processing, or preparation of these articles. For the purpose of the enforcement of this rule, the term "manufacturer" shall mean a person who either by himself or through employees [~~or agents~~]makes for the purpose of sale any bedding, upholstered furniture, quilted clothing, filling material, or any unit thereof[~~, or a retailer who sells bedding, upholstered furniture, quilted clothing, and filling material privately labeled under his name~~].

B. "Non-resident" means a person licensed under these rules who does not have premises in the State of Utah.

C. "Old" means filling material or portion thereof which shows characteristics of aging through deterioration or changing from its original qualities.

D. "Person" means an individual, partnership, association, firm, auctioneer, trust, limited liability company, or corporation, and agents, servants and employees of them.

E. "Premises" means all places where bedding, upholstered furniture, quilted clothing, or filling material is sold, offered for sale, exposed for sale, stored, renovated or manufactured, and the delivery vehicles used in their transportation.

F. "Supply dealer" means a person who manufactures, processes or sells at wholesale any felt, batting, pads or other filling, loose in bags, in bales or in containers, concealed or not concealed, intended for use in bedding, upholstered furniture, or quilted clothing.

G. "Sell" or any of its variants includes any combination of the following: sale, offer, or expose for sale, barter, trade, deliver, rent, consign, lease, possess with the intent to sell or dispose of in any other commercial manner; but does not include any judicial, executor, administrator or guardian sale. The possession of any article of bedding, upholstered furniture, quilted clothing, or filling material defined in these rules, by any maker, dealer, or his agents or servants in the course of business, shall be presumptive evidence of intent to sell.

H. "Uniform Registry Number", "URN", or "state-issued registry number" means the number issued by a state to be used on the law tag of bedding, furniture, or filling materials to identify the manufacturing facility, person, or company accepting responsibility for such products.

R70-101-4. License.

Except as otherwise provided in these rules, any person who advertises, solicits or contracts to manufacture, repair or wholesale any bedding, upholstered furniture, quilted clothing, or filling materials who either does the work himself or has others do it for him, shall secure the particular license for the particular type of work that he solicits or advertises that he does, regardless of whether he has a shop or factory. This license shall be obtained before such products are offered for sale in Utah.

A. Annual license fee. The fee imposed for each license granted under these rules shall be approved by the Legislature.

When the appropriate fee is not paid on or before January 1, the license shall become delinquent, and there shall be added to the fee a late penalty, [~~of $25~~]as approved by the Legislature in the Departments schedule of fees.

B. Suspension or revocation of license[~~,~~] and procedure[~~, review, record~~]. In addition to other remedies provided in [~~these rules~~]this rule, the Department shall have the authority to suspend or revoke any registration or license required by [~~these rules~~]this rule for any violation of their provisions. A suspension or revocation shall be handled as outlined in Section 4-1-5.

R70-101-5. Sanitation Requirements.

A. Use of unsanitary filling material. The premises, delivery equipment, machinery, appliances, and devices of all persons licensed under these rules shall at all times be kept free from refuse, dirt, contamination or insects and no person shall use in the making, repair or renovating of bedding, upholstered furniture, or quilted clothing any filling material:

1. that contains any bugs, vermin or filth;
2. that is unsanitary;
3. that contains burlap[~~,~~] or other material[~~,~~] that has been used for baling.

R70-101-6. Manufacturing, Distribution, Advertising, Labeling and Sale of Quilted Clothing.

A. This section establishes standards and procedures relating to quilted clothing. The department adopts by reference the Rules and Regulations under the Textile Fiber Products Identification Act, July 9, 1986 edition; under the Fur Products Labeling Act, July 4, 1980 edition; and under the Wool Products Labeling Act of 1939, July 9, 1986 edition; excepting that wherever conflicts arise, the state rule shall govern.

B. Articles of plumage-filled clothing shall meet the following requirements:

1. Articles labeled "Down" shall contain a minimum of 75% down and plumules. The minimum down cluster percentage must be listed.

2. Articles containing less than 75% down, shall label the percentages of down and feathers contained therein and shall contain at a minimum the percentage of "Down" printed on the tag.

R70-101-7. Manufacturer Identification and Tag Requirements.

A. The identification of a manufacturer, wholesaler, or supply dealer of quilted clothing or filling material which is to

appear on the label and on the[~~or~~] tag shall be the same as required in rule 19-20 of the Federal Textile Fiber Products Identification Act and Wool Products Labeling Act, and the Federal Trade Commission Rules and Regulations.

The form of identification used on labels and on the[~~or~~] tags shall be the same supplied to the Department on the application for registration.

B. For articles of bedding and upholstered furniture, the law tag shall use the format adopted by the International Association of Bedding and Furniture Law Officials (IABFLO), as listed in the "Tagging Law Manual" of the International Sleep Products Association (ISPA). A copy of the current edition of the "Tagging Law Manual" is available for public inspection at the Utah Department of Agriculture and Food, 350 North Redwood Road, Salt Lake City, Utah.

1. Tags on articles manufactured wholly of new material shall be white in color.

2. Tags on articles manufactured in whole or in part of secondhand materials and tags for "Owners Own Material" shall be yellow.

3. Color of ink on tags shall be black.

4. Tags shall be made of material that cannot be torn or easily abraded, and shall be the required color on both surfaces.

5. All required information shall be clearly and legibly printed in English and printed on one side of the tag only.

6. Tags shall be firmly attached to the article(s) in a position easily visible for examination. Regulated products which are offered for sale in boxes or in some other packaging which makes the law tags attached to the products themselves inaccessible, shall reproduce a fully legible facsimile of the law tag on the outer container or covering.

7. No mark, label, printed matter, illustration, sticker or any other device shall be placed upon the tags in such a way as to cover the required information.

8. A single uniform registry number (URN), issued by the state in which the firm is first registered, shall be used on the law tag. The firm's license with the state that issued the URN must be kept current for the number to be valid for use on products sold or offered for sale in Utah.

C. Every firm doing business under more than one state-issued uniform registry number (URN) shall obtain a license for each number used on products that are offered for sale in Utah. (A change of suffix on a URN shall constitute a new number and require an additional license.)

R70-101-8. Generic Names, Grades, Descriptive Terms, and Definitions of Filling Material.

A. The filling material shall be described on the label and on the[~~or~~] tag by the true generic name, grade, description term, or definitions of the filling material as accepted and approved by the Department. When more than one kind of filling material is used in a mixture, the percent by weight of each shall be listed in order of their predominance. Federal fiber tolerance standards are applicable, except as pertains to plumage products.

B. Blends may be described, if applicable, as under Section 14 in [~~these rules~~]this rule. In the case of non-down and/or non-feather filled articles of quilted clothing, any fiber or groups of individual fibers present in an amount of less than 5% by weight, of the total fiber content may be designated only as "other fiber" or "other fibers".

C. When different filling materials are used in various parts of the garment, the areas of the garment shall be named, followed by the name of the filling material used in that area. Examples:

Body - 50% Down, 50% Feathers[~~- or -~~
~~Body - Goose Down (or) Duck Down (or) Down~~]
Sleeves - Polyester Fiber
Pockets - Nylon Fiber

D. Use of trade names and non-generic terms to describe filling material(s) is prohibited.

R70-101-10. Making or Selling Material or Parts.

A person shall not purchase, make, process, prepare, or sell, directly or indirectly, at wholesale or retail or otherwise, any filling material or other component parts to be used in bedding, upholstered furniture, or quilted clothing, unless such material is plainly tagged as described in [~~the preceding section~~]this rule.

R70-101-11. Labeling of Foreign Articles.

Responsibility for labeling of unlabeled foreign-made bedding, upholstered furniture, quilted clothing, and filling material in compliance with [~~these rules~~]this rule shall rest with the person selling the merchandise in Utah.

R70-101-12. Violation of This Rule.

A. It shall be a separate violation of [~~these rules~~]this rule for each improperly labeled or tagged or unlabeled or untagged article of bedding, upholstered furniture, quilted clothing, or filling material made, sold, exposed or offered for sale, delivered, consigned, rented or possessed with intent to sell contrary to the provisions of [~~these rules~~]this rule.

B. Defense. No person shall be guilty of a violation of [~~these rules~~]this rule if he has received, from the person by whom the articles were manufactured or from whom they were received, a guarantee in good faith that the articles are not contrary to the provisions of these rules. The guarantee shall be in the form prescribed by the Federal Textile Fiber Products Identification Act, the Federal Wool Products Labeling Act and the Federal Trade Commission Rules and Regulations.

R70-101-13. Enforcement Procedures.

A. Removal of Inspector's Tag. Any person who removes, or causes to be removed, any tag or device placed upon any article of bedding, upholstered furniture, quilted clothing, or filling material, by an inspector in the performance of his official duties, is guilty of violation of [~~these rules~~]this rule.

B. Failure to Produce Articles Condemned. The failure of any person to produce upon demand of an inspector any article that has been condemned and ordered held on inspection notice signed by the person, or an inspection notice that the person has refused to sign, is a violation of [~~these rules~~]this rule.

C. Interfere, Hinder Inspector. No person shall interfere with, obstruct, or otherwise hinder any inspector of the Department in the performance of his duties.

D. Retailer[~~'~~]s are Responsible[~~ility~~] to:

1. [~~i~~]ensure that any article of bedding, upholstered furniture, [~~quilted clothing, -~~]or filling material they sell is labeled with a uniform law tag;

2. ensure that quilted clothing tags list filling material(s) and the name or Registered Number (RN) of the manufacturer or distributor;

3[~~2~~]. fully comply with the Department's laws and rules governing false and misleading advertisement;

4[~~3~~]. and make sure that all manufacturers from whom they purchase products that come under the purview of the act, hold a valid license with the [~~d~~]Department.

5[~~4~~]. In addition, upon request of any representative of the Department, a retailer shall provide the Department with the identity of the manufacturer or wholesaler of any article of bedding, upholstered furniture, quilted clothing, or filling material sold by that[~~a~~] retailer.

6[~~5~~]. If the manufacturer or wholesaler so identified is not registered pursuant to [~~these rules~~]this rule and fails or refuses to register upon notification by the Department, any article of bedding, upholstered furniture, quilted clothing, or filling material manufactured or wholesaled by the manufacturer or wholesaler and sold or offered for sale in this state may be withheld from sale until the manufacturer or wholesaler registers; provided, that in the event the manufacturer or wholesaler fails to register, the retailer may register in lieu of the manufacturer or wholesaler.

R70-101-14. Rules and Regulations for Filling Material.

A. All terms and definitions of all filling materials shall be those terms which have been submitted to and approved by IABFLO[~~the Association of Bedding and Furniture Law Officials, Inc.~~], except those terms and definitions listed in [~~these rules~~]this rule.

B. The document entitled "Plumage Regulations", the 2001 edition, approved by [~~the -~~]IABFLO[~~Association of Bedding and Furniture Law Officials~~], is adopted and incorporated by reference within this rule.

C. Cleanliness of Filling Materials.

All filling materials shall be reasonably clean and free from extraneous material, dirt, dust, filth, epidermis, excreta, disagreeable odors, or other contamination.

"Cleanliness" shall mean the oxygen number of any filling material consisting of whole feathers, [~~or -~~]down, or a combination thereof; and the oxygen number of any filling material consisting of an admixture of feathers and down which contains five percent (5%) of crushed feathers shall not exceed 25 grams of oxygen per 100,000 grams of sample. (Oxygen number is considered to be[~~as~~] the amount, by weight, of oxidizable matter such as blood, excreta, and/or fecal matter present.)

D. "Imperfect, irregular foam" shall mean any foam products which show major imperfections or that fall below the foam manufacturer's usual standards or specifications and must be stated on the tag as "imperfect" or "irregular" along with the generic name of the foam.

E. "Imperfect, irregular fibers" shall mean fibers that have imperfections or that fall below the fiber manufacturer's usual standards or specifications and must be stated on the tag as "imperfect" or "irregular" along with the generic name of the fiber.

F. The terms "Prime","Super","Northern" and other terms of similar import shall not be used unless the fill can be proved to be of superior quality and meet the terms of the qualifying statement. Industry shall be responsible for proving to the Department that the fill is superior to the industry standard rating of 550 cubic inches of fill power.

R70-101-15. Products Not Intended for Uses Subject to [~~These Rules~~]This Rule.

A. The Commissioner hereby excludes from [~~these rules~~]this rule all textile fiber products related to quilted clothing except:

1. Articles of down, feather, or fiber filled clothing.
2. Down, feather, or fiber filled hats and hoods.
3. Down, feather, or fiber filled slippers and booties with fabric outer-covering.
4. Down, feather, or fiber filled gloves.
5. Bulk filling material used in the above.

KEY: quality control
Date of Enactment or Last Substantive Amendment: [~~April 3, 2006~~]2009
Notice of Continuation: September 6, 2005
Authorizing, and Implemented or Interpreted Law: 4-10-3

Commerce, Occupational and Professional Licensing

R156-1-305

Inactive Licensure

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 33067
FILED: 10/20/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Professional Engineers and Professional Land Surveyors Licensing Act Rule (R156-22) has provided for sometime an inactive license status for professional engineers, professional land surveyors, and professional structural engineers. However, these professions were inadvertently not included in this rule section.

SUMMARY OF THE RULE OR CHANGE: The professions of professional engineer, professional land surveyor, and professional structural engineer are being added to the listing of licenses that may be placed on inactive status.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-1-308 and Subsection 58-1-106(1)(a) and Subsection 58-1-501(4)

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 only applies to licensed professional engineers, professional land surveyors, and professional structural engineers and applicants for licensure in those classifications. As a result, the proposed amendment does not apply to local governments.
♦ SMALL BUSINESSES: The proposed amendment only applies to licensed professional engineers, professional land surveyors, and professional structural engineers and applicants for licensure in those classifications. 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 amendment only applies to licensed professional engineers, professional land surveyors, and professional structural engineers and applicants for licensure in those classifications. As provided in Rule R156-22, licensed individuals who place their license on an inactive status will not be required, except for the two years prior to reinstating their license, to complete the continuing education requirement. Allowing licensees to place their license on inactive status could have an unknown financial benefit to those individuals who are licensed in multiple states. The average amount of savings for each two-year renewal period would be approximately $1,200 for a licensed engineer and approximately $600 for a licensed land surveyor. The Division is unable to determine how many licensees will choose to place their license on inactive status.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment only applies to licensed professional engineers, professional land surveyors, and professional structural engineers and applicants for licensure in those classifications. As provided in Rule R156-22, licensed individuals who place their license on an inactive status will not be required, except for the two years prior to reinstating their license, to complete the continuing education requirement. Allowing licensees to place their license on inactive status could have an unknown financial benefit to those individuals who are licensed in multiple states. The average amount of savings for each two-year renewal period would be approximately $1,200 for a licensed engineer and approximately $600 for a licensed land surveyor. The Division is unable to determine how many licensees will choose to place their license on inactive status.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing includes professional engineers, professional land surveyors, and professional structural engineers as license categories for which inactive licenses are available. These professions were inadvertently left out of the rule previously. No fiscal impact to businesses is anticipated from correcting this error.

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:
♦ Dennis Meservy by phone at 801-530-6375, by FAX at 801-530-6511, or by Internet E-mail at dmeservy@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: Mark Steinagel , Director

R156. Commerce, Occupational and Professional Licensing.
R156-1. General Rule of the Division of Occupational and Professional Licensing.
R156-1-305. Inactive Licensure.

(1) In accordance with Section 58-1-305, except as provided in Subsection (2), a licensee may not apply for inactive licensure status.

(2) The following licenses issued under Title 58 that are active in good standing may be placed on inactive licensure status:

(a) advanced practice registered nurse;
(b) audiologist;
(c) certified nurse midwife;
(d) certified public accountant emeritus;
(e) certified registered nurse anesthetist;
(f) certified court reporter;
(g) certified social worker;
(h) chiropractic physician;
(i) clinical social worker;
(j) contractor;
(k) deception detection examiner;
(l) deception detection intern;
(m) dental hygienist;
(n) dentist;
(o) direct-entry midwife;
(p) genetic counselor;
(q) health facility administrator;
(r) hearing instrument specialist;
(s) licensed substance abuse counselor;
(t) marriage and family therapist;
(u) naturopath/naturopathic physician;
(v) optometrist;
(w) osteopathic physician and surgeon;
(x) pharmacist;

(y) pharmacy technician;
(z) physician assistant;
(aa) physician and surgeon;
(bb) podiatric physician;
(cc) private probation provider;
(dd) professional counselor;
(ee) professional engineer;
(ff) professional land surveyor;
(gg) professional structural engineer;
([~~ee~~]hh) psychologist;
([~~ff~~]ii) radiology practical technician;
([~~gg~~]jj) radiology technologist;
([~~hh~~]kk) security personnel;
([~~ii~~]ll) speech-language pathologist; and
([~~jj~~]mm) veterinarian.

(3) Applicants for inactive licensure shall apply to the division in writing upon forms available from the division. Each completed application shall contain documentation of requirements for inactive licensure, shall be verified by the applicant, and shall be accompanied by the appropriate fee.

(4) If all requirements are met for inactive licensure, the division shall place the license on inactive status.

(5) A license may remain on inactive status indefinitely except as otherwise provided in Title 58 or rules which implement Title 58.

(6) An inactive license may be activated by requesting activation in writing upon forms available from the division. Unless otherwise provided in Title 58 or rules which implement Title 58, each reactivation application shall contain documentation that the applicant meets current renewal requirements, shall be verified by the applicant, and shall be accompanied by the appropriate fee.

(7) An inactive licensee whose license is activated during the last four months of a renewal cycle shall, upon payment of the appropriate fees, be licensed for a full renewal cycle plus the period of time remaining until the impending renewal date, rather than being required to immediately renew their activated license.

KEY: diversion programs, licensing, occupational licensing, supervision
Date of Enactment or Last Substantive Amendment: [~~August 10,~~]2009
Notice of Continuation: March 1, 2007
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-308; 58-1-501(4)

Commerce, Occupational and Professional Licensing
R156-22
Professional Engineers and Professional Land Surveyors Licensing Act Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33079
FILED: 10/21/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Professional Engineers and Professional Land Surveyors Licensing Board have reviewed the rule and determined that various changes need to be made. The current definition of incidental practice was determined by both the Architects Licensing Board and Professional Engineers and Professional Land Surveyors Licensing Board to be too vague. Both Boards determined there was a need to further define and clarify incidental practice not only for the licensed professionals but also for building inspectors. The two Boards worked together and came up with the language in this proposed rule change. Proposed amendments also update: 1) names of professional associations and examinations; 2) education requirements; 3) work experience; 4) waiting period between each failure for the Utah Land Surveyor Local Practice Examination; 5) when continuing education is due and clarifies when continuing education can be waived; and 6) inactive status requirements for licensees.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-22-102(5), the definition of "incidental practice" is being updated to restrict incidental work to an occupant load of 49 and prohibits work on occupancy category III or IV structures as defined by the 2006 International Building Code. Additionally, incidental work would be limited to 15 percent of the overall construction value of a project. Subsection R156-22-102(7)(c)(i) is amended to change a two or four-year degree to an associate or higher education degree in land surveying to allow master and doctorate degrees; a similar change is also made in Subsection R156-22-302b(2). As provided in Subsection R156-22-302c(4)(a)(i)(B), effective 01/01/2010, a college degree in land surveying will be required to obtain licensure. As a result, the wording which allows for licensure with no college degree and eight years of land surveying experience is being deleted. Also, throughout the rule, the name of the NCEES Principles and Practice of Surveying Examination and the NCEES Fundamentals of Surveying Examination have been updated and the Center for Professional Engineering Services (CPEES) is being changed to National Council of Examiners for Engineering and Surveying (NCEES) Credentials Evaluations. In Section R156-22-302b, added that education requirements also apply to professional structural engineer applicants for licensure. Also added Subsection R156-22-302b(2)(c) which requires land surveying college degrees have regional accreditation. In Subsections R156-22-302c(1)(a) and (b), additions are made to clarify that one year of work experience is established as 2,000 hours and no more than 2,000 hours of work experience can be claimed in any 12-month period. The remaining subsections have been renumbered. In Subsection R156-22-302c(3)(a)(iii), proposed additions establish and clarify waiting periods between each test failure

on the Utah Land Surveyor Local Practice Examination. For the first three test failures, there is a waiting period of 30 days. After the first three failures, there is a six-month waiting period between each test failure. Testing data that is overexposed may result in an ineffective testing process. There is also the perception that multiple testing may allow unqualified individuals to become licensed. In Section R156-22-304, the two-year continuing education reporting period is being changed from December 31 of each even numbered year to March 31 of each odd numbered year to coincide with the renewal date for the profession. Subsection R156-22-304(7) is being deleted and Subsection R156-22-304(9) is being added to clarify how continuing education may be waived by the Division. Section R156-22-305 regarding inactive licensure status is rewritten to allow any licensee to place a license on inactive status as long as the license is active and in good standing at the time of the request for inactive licensure status. Section R156-22-501 regarding administrative penalties is being deleted and moved to the new Section R156-22-503.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-22-101 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. As a result of the proposed amendment concerning inactive licensure status, there may be an unknown increase in the number of licensees (professional engineers, professional structural engineers and professional land surveyors) who place their license on inactive status, but the numbers are expected to be unsubstantial. However, with a $50 inactivation fee and a $50 reinstatement fee, some additional state revenue could be generated.
♦ LOCAL GOVERNMENTS: Due to the clarification of the definition of incidental practice, there could be a cost savings to local governments in that local governments would save time and resources in determining if a licensee could actually perform work that was submitted for review.
♦ SMALL BUSINESSES: There may be an unknown fiscal impact to a limited number of individuals/licensees and firms, which may qualify as a small business, that may be doing work which is prohibited under the proposed rule amendments regarding incidental practice. The Division, however, is unable to determine any exact fiscal impact due to a wide range of circumstances.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendments only apply to licensed professional engineers, professional structural engineers and professional land surveyors, and applicants for licensure in those classifications. There may be an unknown fiscal impact to a limited number of licensees that may be doing work which is prohibited under the proposed rule amendments regarding incidental practice. The Division, however, is unable to determine any exact fiscal impact due to a wide range of circumstances. Licensed individuals who place their license on an inactive status will not be required, except for the two years prior to reinstating their license, to complete the continuing education requirement. Allowing licensees to place their license on inactive status could have an unknown financial benefit to those individuals who are licensed in multiple states. The average amount of savings for each two-year renewal period would be approximately $1,200 for a licensed engineer and approximately $600 for a licensed land surveyor. The Division is unable to determine how many licensees will choose to place their license on inactive status.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed professional engineers, professional structural engineers and professional land surveyors, and applicants for licensure in those classifications. There may be an unknown fiscal impact to a limited number of licensees that may be doing work which is prohibited under the proposed rule amendments regarding incidental practice. The Division, however, is unable to determine any exact fiscal impact due to a wide range of circumstances. Licensed individuals who place their license on an inactive status will not be required, except for the two years prior to reinstating their license, to complete the continuing education requirement. Allowing licensees to place their license on inactive status could have an unknown financial benefit to those individuals who are licensed in multiple states. The average amount of savings for each two-year renewal period would be approximately $1,200 for a licensed engineer and approximately $600 for a licensed land surveyor. The Division is unable to determine how many licensees will choose to place their license on inactive status.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing adopts definitions as required by statute; clarifies existing definitions and standards, such as inactive licensing status and administrative penalties; corrects references to professional organizations; and changes the continuing education deadline to coordinate with the license renewal date. No fiscal impact to businesses is anticipated beyond the cost savings addressed in the rule summary.

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:
♦ Dennis Meservy by phone at 801-530-6375, by FAX at 801-530-6511, or by Internet E-mail at dmeservy@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 11/18/2009 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 475, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: Mark Steinagel , Director

R156. Commerce, Occupational and Professional Licensing.
R156-22. Professional Engineers and Professional Land Surveyors Licensing Act Rule.
R156-22-102. Definitions.

In addition to the definitions in Title 58, Chapters 1, 3a and 22, as used in Title 58, Chapters 1, 3a and 22, or this rule:

(1) "Complete and final" as used in Section 58-22-603 means "complete construction plans" as defined in Subsection 58-22-102(3).

(2) "Direct supervision" as used in Subsection 58-22-102(10) means "supervision" as defined in Subsection 58-22-102(16).

(3) "Employee, subordinate, associate, or drafter of a licensee" as used in Subsections 58-22-102(16), 58-22-603(1)(b) and this rule means one or more individuals not licensed under this chapter, who are working for, with, or providing professional engineering, professional structural engineering, or professional land surveying services directly to and under the supervision of a person licensed under this chapter.

(4) "Engineering surveys" as used in Subsection 58-22-102(9) include all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineered projects, but exclude the surveying of real property for the establishment of land boundaries, rights-of-way, easements, alignment of streets, and the dependent or independent surveys or resurveys of the public land survey system.

(5) "Incidental practice" means "architecture work as is incidental to the practice of engineering" as used in Subsection 58-22-102(9) and "engineering work as is incidental to the practice of architecture" as used in Subsection 58-3a-102(6), which:

(a) can be safely and competently performed by the licensee without jeopardizing the life, health, property and welfare of the public;

(b) [~~is in an area where the licensee has demonstrated competence by adequate education, training and experience;~~

~~(c) arises from, and is directly related to, work performed in the licensed profession;~~

~~(d)~~]is secondary and substantially less in scope and magnitude when compared to the work performed or to be performed by the licensee in the licensed profession;[~~and~~]

([~~e~~]c) is work in which the licensee is fully responsible for the incidental practice performed as provided in Subsections 58-3a-603(1) or 58-22-603(1);

(d) is work that affects not greater than 49 occupant as determined in Section 1004 of the 2006 International Building Code;

(e) is work included on a project with a construction value not greater than 15 percent of the overall construction value for the project including all changes or additions to the contracted or agreed upon work; and

(f) shall not include work on a building or related structure in an occupancy category of III or IV as defined in 1604.5 of the 2006 International Building Code.

(6) "Professional structural engineering or the practice of structural engineering", as defined in Subsection 58-22-102(14), is further defined to exclude the design and oversight of the construction and installation of highway, utility, or pedestrian bridges.

(7) "Recognized jurisdiction" as used in Subsection 58-22-302(4)(d)(i), for licensure by endorsement, means any state, district or territory of the United States, or any foreign country [~~who~~]that issues licenses for professional engineers, professional structural engineers, or professional land surveyors, and whose licensure requirements include:

(a) Professional Engineer.

(i) a bachelors or post graduate degree in engineering or equivalent education as determined by the [~~Center for Professional Engineering Services (CPEES)~~]NCEES Credentials Evaluations and four years of full time engineering experience under supervision of one or more licensed engineers; and

(ii) passing the NCEES Principles and Practice of Engineering Examination (PE).

(b) Professional Structural Engineer.

(i) a bachelors or post graduate degree in engineering or equivalent education as determined by the [~~Center for Professional Engineering Services (CPEES)~~]NCEES Credentials Evaluations and four years of full time engineering experience under supervision of one or more licensed engineers;

(ii) passing the NCEES Structural I and II Examination; and

(iii) three years of licensed experience in professional structural engineering.

(c) Professional Land Surveyor.

(i) [~~a two or four year degree~~]an associate or higher education degree in land surveying as set forth in Subsection R156-22-302b(2)(c) or equivalent education as determined by the [~~Center for Professional Engineering Services (CPEES)~~]NCEES Credentials Evaluations and four years of full time land surveying experience under supervision of one or more licensed professional land surveyors;[~~or eight years of full time land surveying experience under supervision of one or more licensed professional land surveyors;~~] and

(ii) passing the NCEES Principles and Practice of [~~Land~~]Surveying Examination ([~~PLS~~]PS) or passing a professional land surveying examination that is substantially equivalent to the NCEES Principles and Practice of [~~Land~~]Surveying Examination.

(8) "Responsible charge" by a principal as used in Subsection 58-22-102(7) means that the licensee is assigned to and is personally accountable for the production of specified professional engineering, professional structural engineering or professional land surveying projects within an organization.

(9) "TAC/ABET" means Technology Accreditation Commission/Accreditation Board for Engineering and Technology(ABET, Inc.).

(10) "Under the direction of the licensee" as used in Subsection 58-22-102(16), as part of the definition of "supervision of an employee, subordinate, associate, or drafter of a licensee", means that the unlicensed employee, subordinate, associate, or drafter of a person licensed under this chapter engages in the practice of professional engineering, professional structural engineering, or professional land surveying only on work initiated by a person licensed under this chapter, and only under the administration, charge, control, command, authority, oversight, guidance, jurisdiction, regulation, management, and authorization of a person licensed under this chapter.

(11) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 22, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-22-502.

R156-22-302b. Qualifications for Licensure - Education Requirements.

(1) Education requirements - Professional Engineer and Professional Structural Engineer.

In accordance with Subsections 58-22-302(1)(d) and 58-22-302(2)(d), the engineering program criteria is established as one of the following:

(a) The bachelors or post graduate engineering program shall be accredited by EAC/ABET or the Canadian Engineering Accrediting Board (CEAB).

(b) The post graduate engineering degree, when not accredited by EAC/ABET or CEAB, shall be earned from an institution which offers a bachelors or masters degree in an engineering program accredited by EAC/ABET or CEAB in the same specific engineering discipline as the earned post graduate degree and the applicant is responsible to demonstrate that the combined engineering related coursework taken (both undergraduate and post graduate) included coursework that meets or exceeds the engineering related coursework required for the EAC/ABET accreditation for the bachelor degree program.

(c) If the degree was earned in a foreign country, the engineering curriculum shall be determined to be equivalent to an EAC/ABET accredited program by the NCEES Credentials Evaluations, formerly known as the Center for Professional Engineering Education Services (CPEES). Only deficiencies in course work in the humanities, social sciences and liberal arts and no more than five semester hours in math, science or engineering, not to exceed a total of 10 semester hours noted by the credentials evaluation may be satisfied by successfully completing the deficiencies in course work at a recognized college or university approved by the division in collaboration with the board. Engineering course work deficiencies must be completed at an EAC/ABET approved program.

(d) A TAC/ABET accredited degree is not acceptable to meet the qualifications for licensure as a professional engineer or a professional structural engineer.

(2) Education requirements - Professional Land Surveyor.

In accordance with Subsection 58-22-302(3)(d), an equivalent land surveying program for licensure as a professional land surveyor is defined as an earned bachelors or [~~masters~~]higher education degree and completion of a minimum of 30 semester hours or 42 quarter hours of course work in land surveying which shall include the following courses:

(a) successful completion of a minimum of one course in each of the following content areas:

(i) boundary law;

(ii) writing legal descriptions;

(iii) photogrammetry;

(iv) public land survey system;

(v) studies in land records or land record systems;

(vi) surveying field techniques; and

(b) the remainder of the 30 semester hours or 42 quarter hours may be made up of successful completion of courses from the following content areas:

(i) algebra, calculus, geometry, statistics, trigonometry, not to exceed six semester hours or eight quarter hours;

(ii) control systems;

(iii) drafting, not to exceed six semester hours or eight quarter hours;

(iv) geodesy;

(v) geographic information systems;

(vi) global positioning systems;

(vii) land development; and

(viii) survey instrumentation;

(c) the degree and courses shall be completed in an education institution accredited by one of the following:

(i) Middle States Association of Colleges and Schools;

(ii) New England Association of Colleges and Schools;

(iii) North Central Association of Colleges and Schools;

(iv) Northwest Commission on College and Universities;

(v) Southern Association of Colleges and Schools; or

(vi) Western Association of Schools and Colleges.

R156-22-302c. Qualifications for Licensure - Experience Requirements.

(1) General Requirements. These general requirements apply to all applicants under this chapter and are in addition to the specific license requirements in Subsections (2), (3) and (4).

(a) 2,000 hours of work experience constitutes one year (12 months) of work experience.

(b) No more than 2,000 hours of work experience can be claimed in any 12 month period.

([~~a~~]c) Experience must be progressive on projects that are of increasing quality and requiring greater responsibility.

([~~b~~]d) Only experience of an engineering, structural engineering or surveying nature, as appropriate for the specific license, is acceptable.

([e]e) Experience is not acceptable if it is obtained in violation of applicable statutes or rules.

([~~d~~]f) Unless otherwise provided in this Subsection (1)([e]g), experience shall be gained under the direct supervision of a person licensed in the profession for which the license application is submitted. Supervision of an intern by another intern is not permitted.

([e]g) Experience is also acceptable when obtained in a work setting where licensure is not required or is exempted from licensure requirements, including experience obtained in the armed services if:

(i) the experience is performed under the supervision of qualified persons and the applicant provides verifications of the credentials of the supervisor; and

(ii) the experience gained is equivalent to work performed by an intern obtaining experience under a licensed supervisor in a licensed or civilian setting, and the applicant provides verification of the nature of the experience.

([~~f~~]h) Proof of supervision. The supervisor shall provide to the applicant the certificate of qualifying experience in a sealed envelope with the supervisor's seal stamped across the seal flap of the envelope, which the applicant shall submit with the application for licensure.

([~~g~~]i) In the event the supervisor is unavailable or refuses to provide a certification of qualifying experience, the applicant shall submit a complete explanation of why the supervisor is unavailable and submit verification of the experience by alternative means acceptable to the board, which shall demonstrate that the work was profession-related work, competently performed, and sufficient accumulated experience for the applicant to be granted a license without jeopardy to the public health, safety or welfare.

([~~h~~]j) In addition to the supervisor's documentation, the applicant shall submit at least one verification of qualifying experience from a person licensed in the profession who has personal knowledge of the applicant's knowledge, ability and competence to practice in the profession applied for.

([~~i~~]k) Duties and responsibilities of a supervisor. The duties and responsibilities of a licensee under Subsection (1)([~~d~~]f) or other qualified person under Subsection (1)([e]g) include the following.

(i) A person may not serve as a supervisor for more than one firm.

(ii) A person who renders occasional, part time or consulting services to or for a firm may not serve as a supervisor.

(iii) The supervisor shall be in responsible charge of the projects assigned and is professionally responsible for the acts and practices of the supervisee.

(iv) The supervision shall be conducted in a setting in which the supervisor is independent from control by the supervisee and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised.

(v) The supervisor shall be available for advice, consultation and direction consistent with the standards and ethics of the profession.

(vi) The supervisor shall provide periodic review of the work assigned to the supervisee.

(vii) The supervisor shall monitor the performance of the supervisee for compliance with laws, standards and ethics applicable to the profession.

(viii) The supervisor shall provide supervision only to a supervisee who is an employee of a licensed professional or alternatively in a setting wherein both the supervisor and the supervisee are engaged in a work setting in which the work is exempt from licensure requirements.

(ix) The supervisor shall submit appropriate documentation to the division with respect to all work completed by the supervisee during the period of supervised experience, including the supervisor's evaluation of the supervisee's competence to practice in the profession.

(x) The supervisor shall assure each supervisee has obtained the degree which is a prerequisite to the intern beginning to obtain qualifying experience.

(2) Experience Requirements - Professional Engineer.

(a) In accordance with Subsection 58-22-302(1)(e), an applicant for licensure as a professional engineer shall complete the following qualifying experience requirements:

(i) Submit verification of qualifying experience, obtained while under the supervision of one or more licensed professional engineers, which experience has been certified by the licensed professional who provided the supervision documenting completion of a minimum of four years of full time or equivalent part time qualifying experience in professional engineering approved by the division in collaboration with the board in accordance with the following:

(A) The qualifying experience must be obtained after meeting the education requirements.

(B) A maximum of three of the four years of qualifying experience may be approved by the board as follows:

(I) A maximum of three years of qualifying experience may be granted for teaching advanced engineering subjects in a college or university offering an engineering curriculum accredited by EAC\ABET.

(II) A maximum of three years of qualifying experience may be granted for conducting research in a college or university offering an engineering curriculum accredited by EAC/ABET provided the research is under the supervision of a licensed professional and is directly related to the practice of engineering, as long as such research has not been credited towards the education requirements. Therefore research which is included as part of the classwork, thesis or dissertation or similar work is not acceptable as additional work experience.

(III) A maximum of one year of qualifying experience may be granted for completion of a masters degree in engineering provided that both the earned bachelors and masters degree in engineering meet the program criteria set forth in Subsection R156-22-302b(1).

(IV) A maximum of two years of qualifying experience may be granted for completion of a doctorate degree in engineering provided that both the earned bachelors or masters degree and doctorate degree in engineering meet the program criteria set forth in Subsection R156-22-302b(1).

(b) The performance or supervision of construction work as a contractor, foreman or superintendent is not qualifying experience for licensure as a professional engineer.

(c) Experience should include demonstration of, knowledge, application, and practical solutions using engineering mathematics, physical and applied science, properties of materials and the fundamental principles of engineering design.

(3) Experience Requirements - Professional Structural Engineer.

(a) In accordance with Subsection 58-22-302(2)(e), each applicant shall submit verification of three years of full time or equivalent part time professional structural engineering experience obtained while under the supervision of one or more licensed professional structural engineers, which experience is certified by the licensed structural engineer supervisor and is in addition to the qualifying experience required for licensure as a professional engineer.

(b) Professional structural engineering experience shall include responsible charge of structural design in one or more of the following areas:

(i) structural design of any building or structure two stories and more, or 45 feet in height, located in a region of moderate or high seismic risk designed in accordance with current codes adopted pursuant to Section 58-56-4;

(ii) structural design for a major seismic retrofit/rehabilitation of an existing building or structure located in a region of moderate or high seismic risk; or

(iii) structural design of any other structure of comparable structural complexity.

(c) Professional structural engineering experience shall include structural design in all of the following areas:

(i) use of three of the following four materials as they relate to the design, rehabilitation or investigation of buildings or structures:

(A) steel;

(B) concrete;

(C) wood; or

(D) masonry;

(ii) selection of framing systems including the consideration of alternatives and the selection of an appropriate system for the interaction of structural components to support vertical and lateral loads;

(iii) selection of foundation systems including the consideration of alternatives and the selection of an appropriate type of foundation system to support the structure;

(iv) design and detailing for the transfer of forces between stories in multi-story buildings or structures;

(v) application of lateral design in the design of the buildings or structures in addition to any wind design requirements; and

(vi) application of the local, state and federal code requirements as they relate to design loads, materials, and detailing.

(4) Experience Requirements - Professional Land Surveyor.

(a) In accordance with Subsections 58-22-302(3)(d), an applicant for licensure as a professional land surveyor shall complete the following qualifying experience requirements:

(i) Submit verification of qualifying experience obtained under the supervision of one or more licensed professional land surveyors who have provided supervision, which experience is certified by the licensed professional land surveyor supervisor and is in accordance with the following:

(A) Applicants who have met the education requirements in Subsection 58-22-302(3)(d)(i) shall document four years of full time or equivalent part time qualifying experience in land surveying which experience may be obtained before, during or after completing the education requirements for licensure.

(B) Prior to January 1, 2007, applicants who did not complete the education requirements in Subsection 58-22-302(3)(d)(i) shall have until December 31, 2009 to apply for licensure by documenting eight years of qualifying experience in land surveying.

(b) The four years of qualifying experience required in R156-22-302c(4)(a)(i)(A) and four of the eight years required in R156-22-302c(4)(a)(i)(B) shall comply with the following:

(i) Two years of experience should be specific to field surveying with actual "hands on" surveying, including all of the following:

(A) operation of various instrumentation;

(B) review and understanding of plan and plat data;

(C) public land survey systems;

(D) calculations;

(E) traverse;

(F) staking procedures;

(G) field notes and manipulation of various forms of data encountered in horizontal and vertical studies; and

(ii) Two years of experience should be specific to office surveying, including all of the following:

(A) drafting (includes computer plots and layout);

(B) reduction of notes and field survey data;

(C) research of public records;

(D) preparation and evaluation of legal descriptions; and

(E) preparation of survey related drawings, plats and record of survey maps.

(c) The remaining qualifying experience required in R156-22-302c(4)(a)(i)(B) shall include any aspects of the practice of land surveying under the supervision of a licensed professional land surveyor in accordance with Subsection 58-22-102(16).

R156-22-302d. Qualifications for Licensure - Examination Requirements.

(1) Examination Requirements - Professional Engineer.

(a) In accordance with Subsection 58-22-302(1)(f), the examination requirements for licensure as a professional engineer are defined, clarified or established as the following:

(i) the NCEES Fundamentals of Engineering (FE) Examination with a passing score as established by the NCEES except that an applicant who has completed an undergraduate degree from an EAC/ABET accredited program and has completed a Ph.D. or doctorate in engineering from an institution that offers EAC/ABET undergraduate programs in the Ph.D. field of engineering is not required to take the FE examination;

(ii) the NCEES Principles and Practice of Engineering (PE) Examination other than Structural II with a passing score as established by the NCEES; and

(iii) pass all questions on the open book, take home Utah Law and Rules Examination, which is included as part of the application for licensure forms.

(b) If an applicant was approved by the Utah Division of Occupational and Professional Licensing to take the examinations required for licensure as an engineer under prior Utah statutes and rules and did take and pass all examinations required under such prior rules, the prior examinations will be acceptable to qualify for reinstatement of licensure rather than the examinations specified under Subsection R156-22-302d(1)(a).

(c) Prior to submitting an application for pre-approval to sit for the NCEES PE examination, an applicant must have successfully completed three out of the four years of the qualifying experience requirements set forth in Subsection R156-22-302c(1), and have successfully completed the education requirements set forth in Subsection R156-22-302b(1).

(d) The admission criteria to sit for the NCEES FE examination is set forth in Section 58-22-306.

(2) Examination Requirements - Professional Structural Engineer.

(a) In accordance with Subsection 58-22-302(2)(f), the examination requirements for licensure as a professional structural engineer are defined, clarified, or established as the following:

(i) the NCEES Fundamentals of Engineering Examination (FE) with a passing score as established by the NCEES;

(ii) the NCEES Structural I and Structural II Examinations with a passing score as established by the NCEES; and

(iii) as part of the application for license, pass all questions on the open book, take home Utah Law and Rules Examination.

(b) Prior to submitting an application for pre-approval to sit for the NCEES Structural II examination, an applicant must have successfully completed two out of the three years of the experience requirements set forth in Subsection R156-22-302c(3).

(3) Examination Requirements - Professional Land Surveyor.

(a) In accordance with Subsection 58-22-302(3)(e), the examination requirements for licensure as a professional land surveyor are established as the following:

(i) the NCEES Fundamentals of [~~Land~~]Surveying ([~~FLS~~]FS) Examination with a passing score as established by the NCEES;

(ii) the NCEES Principles and Practice of [~~Land~~] Surveying ([~~PLS~~]PS) Examination with a passing score as established by the NCEES; and

(iii) the Utah Local Practice Examination with a passing score of at least 75. An applicant who fails the Utah Local Practice Examination may retake the examination as follows:

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

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

(b) Prior to submitting an application for pre-approval to sit for the NCEES [~~PLS~~]PS examination, an applicant must have successfully completed the education requirement set forth in Subsection R156-22-302b(2) and three out of the four years of the qualifying experience requirements set forth in Subsection R156-22-302c(4).

(4) Examination Requirements for Licensure by Endorsement.

In accordance with Subsection 58-22-302(4)(d)(ii), the examination requirements for licensure by endorsement are established as follows:

(a) Professional Engineer: An applicant for licensure as a professional engineer by endorsement shall comply with the examination requirements in Subsection R156-22-302d(1) except that the board may waive one or more of the following examinations under the following conditions:

(i) the NCEES FE Examination for an applicant who is a principal for five of the last seven years preceding the date of the license application and who was not required to pass the NCEES FE Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed;

(ii) the NCEES PE Examination for an applicant who is a principal for five of the last seven years preceding the date of the license application, who has been licensed for 20 years preceding the date of the license application, and who was not required to pass the NCEES PE Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed.

(b) Professional Structural Engineer: An applicant for licensure as a professional structural engineer by endorsement shall comply with the examination requirements in Subsection R156-22-302d(2) except that the board may waive the NCEES FE Examination for an applicant who is a principal for five of the last seven years preceding the date of the license application and who was not required to pass the NCEES FE Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed.

(c) Professional Land Surveyor: An applicant for licensure as a professional land surveyor by endorsement shall comply with the examination requirements in Subsection R156-22-302d(3) except that the board may waive either the NCEES [~~FLS~~](FS) Examination or the NCEES [~~PLS~~](PS) Examination or both to an applicant who is a principal for five of the last seven years preceding the date of the license application and who was not required to pass the NCEES [~~FLS~~](FS) Examination or the [~~PLS~~](PS) Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed.

R156-22-304. Continuing Education for Professional Engineers, Professional Structural Engineers and Professional Land Surveyors.

In accordance with Subsection 58-22-303(2) and Section 58-22-304, the qualifying continuing professional education standards for professional engineers, professional structural engineers and professional land surveyors are established as follows:

(1) During each two year period ending on [~~December~~]March 31 of each [~~even~~]odd numbered year, a licensed professional engineer, professional structural engineer and professional land surveyor shall be required to complete not less than 24 hours of qualified professional education directly related to the licensee's professional practice.

(2) The required number of hours of 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.

(3) Qualified continuing 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 professional engineer, professional structural engineer, or professional land surveyor;

(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.

(4) Credit for qualified continuing professional education shall be recognized in accordance with the following:

(a) unlimited hours shall be recognized for professional education completed in blocks of time of not less than one hour in formally established classroom courses, seminars, or conferences;

(b) a maximum of 12 hours per two year period may be recognized for teaching in a college or university or for teaching qualified continuing professional education courses in the field of professional engineering, professional structural engineering or professional land surveying, provided it is the first time the material has been taught during the preceding 12 months;

(c) a maximum of four hours per two year period may be recognized for preparation of papers, articles, or books directly related to the practice of professional engineering, professional structural engineering or professional land surveying and submitted for publication; and

(d) a maximum of eight hours per two year period may be recognized at the rate of one hour for each hour served on committees or in leadership roles in any state, national or international organization for the development and improvement of the profession of professional engineering, professional structural engineering or professional land surveying but no more than four of the eight hours may be obtained from such activity in any one organization;

(e) unlimited hours may be recognized for continuing education that is provided via Internet or through home study courses provided the course verifies registration and participation in the course by means of a test which demonstrates that the participant has learned the material presented.

(5) A licensee shall be responsible for maintaining records of completed qualified continuing 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 information with respect to qualified continuing professional education to demonstrate it meets the requirements under this section.

(6) If a licensee exceeds the 24 hours of qualified continuing professional education during the two year period, the licensee may carry forward a maximum of 12 hours of qualified continuing professional education into the next two year period.

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

~~(8)~~]Any licensee who fails to timely complete the continuing education required by this rule shall be required to complete double the number of hours missed to be eligible for renewal or reinstatement of licensure.

([~~9~~]8) Any applicant for reinstatement who was not in compliance with the continuing education requirement at the time of the expiration of licensure shall be required to complete 24 hours of continuing education complying with this rule within two years prior to the date of application for reinstatement of licensure.

(9) The Division may waive continuing education in accordance with R156-1-308d.

R156-22-305. Inactive Status.

[~~(1) A person currently licensed and in good standing as a professional engineer, professional structural engineer or professional land surveyor may apply for a transfer of that license to inactive status if:~~

~~(a)(i) the licensee is at least 60 years of age;~~

~~(ii) the licensee is disabled; or~~

~~(iii) the division finds other good cause for believing that the licensee will not return to the practice as a professional engineer, professional structural engineer or professional land surveyor;~~

~~(b) the licensee makes application for transfer of status and registration and pays a registration fee determined by the department under Section 63J-1-504; and~~

~~(c) the licensee, on application for transfer, certifies that he will not engage in the practice for which a license is required while on inactive status.~~

~~(2) Each inactive license shall be issued in accordance with the two-year renewal cycle established by Section R156-1-308a.~~

~~(3) Inactive status licensees may not engage in practice for which a license is required.~~

~~(4) Inactive status licensees are not required to fulfill the continuing professional education under this rule.~~

~~(5) Each inactive status licensee is responsible for renewing his inactive license according to division procedures.~~

~~(6) An inactive status licensee may reinstate his license to active status by:~~

~~(a) submitting an application in a form prescribed by the division;~~

~~(b) paying a fee determined by the department under Section 63J-1-504; and~~

~~(c) showing evidence of having completed the continuing professional education requirement established in Subsection R156-22-304(9).~~](1) The requirements for inactive licensure specified in Subsection R156-1-305(3) shall also include certification that the professional engineer, professional structural engineer or professional land surveyor licensee shall not engage in the profession for which the license was issued while the license is on inactive status except to identify the individual as an inactive licensee.

(2) A license, prior to being placed on inactive status, shall be active and in good standing.

(3) Inactive status licensees are not required to fulfill the continuing education requirement.

(4) In addition to the requirements in Subsection R156-1-305(6) to reactivate an inactive license, a licensee shall provide documentation that the licensee, within two years of the license being reactivated, completed 24 hours of continuing education.

(5) Prior to a license being reactivated, a licensee shall meet the requirements for license renewal.

[

~~R156-22-501. Administrative Penalties - Unlawful Conduct.~~

~~In accordance with Subsections 58-1-501, 58-1-501(1)(a) through (d), 58-22-501 and 58-22-503, unless otherwise ordered by the presiding officer, the following fine schedule shall apply.~~

~~(1) Engaging in unlicensed practice or using any title that would cause a reasonable person to believe the user of the title is licensed under this chapter.~~
~~First Offense: $800~~
~~Second Offense: $1,600~~
~~(2) Engaging in, or representing oneself as engaged in the practice of professional engineering or land surveying as a corporation, proprietorship, partnership, or limited liability company unless exempted from licensure.~~
~~First Offense: $800~~
~~Second Offense: $1,600~~
~~(3) Impersonating another licensee or engaging in practice under this chapter using a false or assumed name, unless permitted by law.~~
~~First Offense: $1,000~~
~~Second Offense: $2,000~~
~~(4) Knowingly employing any person to practice under this chapter who is not licensed to do so.~~
~~First Offense: $1,000~~
~~Second Offense: $2,000~~
~~(5) Knowingly permits any person to use his or her license except as permitted by law.~~
~~First Offense: $1,000~~
~~Second Offense: $2,000~~
~~(6) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor. If a citation is issued for a third offense, the fine is double the second offense amount, with a maximum amount not to exceed the maximum fine allowed under Subsection 58-22-503(1)(i).~~
~~(7) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.~~
~~(8) An investigative supervisor may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.~~
~~(9) In all cases the presiding officer shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount based upon the evidence reviewed.~~]

R156-22-503. Administrative Penalties.

(1) In accordance with Subsection 58-22-503, the following fine schedule shall apply to citations issued to individuals licensed under Title 58, Chapters 1 and 22:

TABLE

FINE SCHEDULE

Violation	First Offense	Second Offense
58-1-501(1)(a)	$ 800.00	$1,600.00
58-1-501(1)(b)	$1,000.00	$2,000.00
58-1-501(1)(c)	$1,000.00	$2,000.00
58-1-501(1)(d)	$1,000.00	$2,000.00
58-22-501(1)	$ 800.00	$1,600.00
58-22-501(2)	$ 800.00	$1,600.00
58-22-501(3)	$ 800.00	$1,600.00
58-22-501(4)	$ 800.00	$1,600.00
58-22-501(5)	$ 800.00	$1,600.00

(2) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor. If a citation is issued for a third offense, the fine is double the second offense amount, with a maximum amount not to exceed the maximum fine allowed under Subsection 58-22-503(1)(i).

(3) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

(4) An investigative supervisor may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

(5) In all cases the presiding officer shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount based upon the evidence reviewed.

KEY: [~~engineers, surveyors,~~]professional land surveyors, professional engineers, professional structural engineers
Date of Enactment or Last Substantive Amendment: [~~April 7,~~]2009
Notice of Continuation: November 15, 2007
Authorizing, and Implemented or Interpreted Law: 58-22-101; 58-1-106(1)(a); 58-1-202(1)(a)

Commerce, Occupational and Professional Licensing
R156-42a
Occupational Therapy Practice Act Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33092
FILED: 10/26/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Occupational Therapy Board reviewed the rule and determined that changes need to be made.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule, statutory and rule citations have been updated as needed. Subsection R156-42a-502(4) is being added to define as unprofessional conduct the violation of any provision of the American Occupational Therapy Association Code of Ethics, April 2005 edition.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-42a-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Division will incur minimal costs of approximately $50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
♦ LOCAL GOVERNMENTS: The proposed amendments only apply to licensed occupational therapists and occupational therapy assistants 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 occupational therapists and occupational therapy assistants and applicants for licensure in those classifications. 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 occupational therapists and occupational therapy assistants and applicants for licensure in those classifications. If a licensee violated any of the provisions of the American Occupational Therapy Association Code of Ethics, the licensee could be charged with unprofessional conduct against the license, which may result in some costs to the licensee to defend a possible licensure action.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed occupational therapists and occupational therapy assistants and applicants for licensure in those classifications. If a licensee violated any of the provisions of the American Occupational Therapy Association Code of Ethics, the licensee could be charged with unprofessional conduct against the license, which may result in some costs to the licensee to defend a possible licensure action.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated with this rule filing, which makes technical changes, corrects references and further defines unprofessional conduct by a licensee.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 12/02/2009 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 464, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: Mark Steinagel , Director

R156. Commerce, Occupational and Professional Licensing.
R156-42a. Occupational Therapy Practice Act Rule.
R156-42a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 42a, as used in Title 58, Chapters 1 and 42a, or this rule:

(1) "General supervision", as used in Section 58-42a-304 and Subsection R156-42a-302b(2), means the supervising occupational therapist is:

(a) present in the area where the person supervised is performing services; and

(b) immediately available to assist the person being supervised in the services being performed.

(2) "Consult with the attending physician", as used in Subsection 58-42a-501(6), means that the occupational therapist will consult with the attending physician when an acute change of patient condition affects the occupational therapy services being performed.

(3) "Physical agent modalities", as used in Subsection 58-42a-102(9)(g), means specialized treatment procedures that produce a response in soft tissue through the use of light, water, temperature, sound or electricity such as hot packs, ice, paraffin, and electrical or sound currents.

(4) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 42a, is further defined, in accordance with Subsection 58-1-203([~~5~~]1)(e), in Section R156-42a-502.

R156-42a-103. Authority - Purpose.

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 42a.

R156-42a-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licenses under Title 58, Chapter 42a is established by rule in R156-1-308a.

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

R156-42a-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) delegating supervision, or occupational therapy services, care or responsibilities not authorized under Title 58, Chapter 42a or this rule;

(2) engaging in or attempting to engage in the use of physical agent modalities when not competent to do so by education, training, or experience;[~~ and~~]

(3) failing to provide general supervision as set forth in Title 58, Chapter 42a and this rule; and

(4) violating any provision of the American Occupational Therapy Association Code of Ethics, last amended April 2005, which is hereby adopted and incorporated by reference.

KEY: licensing, occupational therapy
Date of Enactment or Last Substantive Amendment: [~~February 22, 2007~~]2009
Notice of Continuation: February 26, 2009
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-42a-101

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

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33115
FILED: 11/02/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Psychologist Board reviewed the rule and determined that changes need to be made.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule, statutory and rule citations have been updated as needed, the term "division" and "board" have been capitalized where applicable and other stylistic corrections have been made. In Subsection R156-61-302b(1), the proposed amendment authorizes the Division, in collaboration with the Board, to make exceptions to the requirement that the experience requirement be met within four years after awarding of a doctoral degree. Exceptions are made only under extenuating circumstances as determined by the Division and Board. In Section R156-61-302h, the proposed amendments replace the term "qualified continuing education" and "professional continuing education" with the term "continuing education" to allow for consistency throughout the rule.

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

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: 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 psychologists and certified psychology residents 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 psychologists and certified psychology residents and applicants for licensure in those classifications. 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 psychologists and certified psychology residents and applicants for licensure in those classifications. Under the existing rule, an applicant who takes over four years after awarding of the applicant's doctoral degree to complete the required 4,000 hours of supervised experience cannot qualify for a psychologist license. The proposed amendment to Section R156-61-302b authorizes the Division, in collaboration with the Board, to make exceptions to this requirement. This may result in a small number of applicants meeting license requirements who otherwise would not qualify. The proposed rule amendment creates a financial benefit to these applicants; however, the Division is unable to determine an exact benefit amount due to a wide range of circumstances that may be reviewed by the Division and Board.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed psychologists and certified psychology residents and applicants for licensure in those classifications. Under the existing rule, an applicant who takes over four years after awarding of the applicant's doctoral degree to complete the required 4,000 hours of supervised experience cannot qualify for a psychologist license. The proposed amendment to Section R156-61-302b authorizes the Division, in collaboration with the Board, to make exceptions to this requirement. This may result in a small number of applicants meeting license requirements who otherwise would not qualify. The proposed rule amendment creates a financial benefit to these applicants; however, the Division is unable to determine an exact benefit amount due to a wide range of circumstances that may be reviewed by the Division and Board.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As indicated in the rule summary, this rule filing is not expected to result in any fiscal impact to businesses, but may result in some savings to license applicants where the Division exercises its discretion to extend the time for completing the experience requirement.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 12/02/2009 10:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 464 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: Mark Steinagel , Director

R156. Commerce, Occupational and Professional Licensing.
R156-61. Psychologist Licensing Act Rule.
R156-61-102. Definitions.

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

(1) "Approved diagnostic and statistical manual for mental disorders" means the "Diagnostic and Statistical Manual of Mental Disorders", 4th edition Text Revision (DSM-IV-TR), published by the American Psychiatric Association, or the ICD-10-CM published by Medicode or the American Psychiatric Association.

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

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

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

(4)(a) "Program accredited by the CoA", as used in Subsections R156-61-302a(1), means a psychology department program that is accredited at the time of completion of a doctoral psychology degree.

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

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

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

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

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

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

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

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

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

R156-61-103. Authority - Purpose.

This rule is adopted by the [~~d~~]Division under the authority of Subsection 58-1-106(1) to enable the [~~d~~]Division to administer Title 58, Chapter 61.

R156-61-201. Advisory Peer Committee Created - Membership - Duties.

(1) There is hereby enabled in accordance with Subsection 58-1-203(1)(f), the Ethics Committee as an advisory peer committee to the Psychology Licensing Board on either a permanent or ad hoc basis consisting of members licensed in good standing as psychologists qualified to engage in the practice of mental health therapy, in number and area of expertise necessary to fulfill the duties and responsibilities of the committee as set forth in Subsection (3).

(2) The committee shall be appointed and serve in accordance with Section R156-1-205.

(3) The [~~duties and responsibilities of the~~]committee shall assist[~~include assisting~~] the [~~d~~]Division in its duties, functions, and responsibilities defined in Section 58-1-202 [~~as follows~~]including:

(a) upon the request of the [~~d~~]Division, reviewing reported violations of Utah law or the standards and ethics of the

profession by a person licensed as a psychologist and [~~advise~~]advising the [~~d~~]Division if allegations against or information known about the person presents a reasonable basis to initiate or continue an investigation with respect to the person;

(b) upon the request of the [~~d~~]Division [~~provide~~]providing expert advice to the [~~d~~]Division with respect to conduct of an investigation; and

(c) when appropriate [~~serve~~]serving as an expert witness in matters before the [~~d~~]Division.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) In accordance with Section 58-1-203 and Subsection 58-61-304(1)(g), an applicant for the EPPP or the Utah Law and Rule examination must pass the examinations within one year from the date of the psychologist application for licensure. If the applicant does not pass the examinations within one year, the pending psychologist application will be denied. The applicant may

continue to register to take the EPPP examination under the procedures outlined in Subsection R156-61-302c(4).

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

R156-61-302d. Qualifications for Designation as an Approved Psychology Training Supervisor.

In accordance with Subsections 58-61-304(1)(e) and (f), to be approved by the [~~d~~]Division in collaboration with the [~~b~~]Board as a supervisor of psychology or mental health therapy training, an individual shall:

(1) be currently licensed in good standing as a psychologist in the jurisdiction in which the supervised training is being performed; and

(2) have practiced as a licensed psychologist for not [~~less~~]fewer than 4,000 hours in a period of not less than two years.

R156-61-302e. Duties and Responsibilities of a Supervisor of Psychology Training and Mental Health Therapist Training.

The duties and responsibilities of a psychologist supervisor are further defined, clarified or established as follows. The psychologist supervisor shall:

(1) be professionally responsible for the acts and practices of the supervisee which are a part of the required supervised training, including supervision of all activities requiring a mental health therapy license;

(2) engage in a relationship with the supervisee in which the supervisor is independent from control by the supervisee, and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised;

(3) supervise not more than three full-time equivalent supervisees unless otherwise approved by the Division in collaboration with the Board;

(4) [~~make themselves~~]be available for advice, consultation, and direction consistent with the standards and ethics of the profession and the requirements suggested by the total circumstances including the supervisee's level of training, ability to diagnose patients, and other factors determined by the supervisor;

(5) comply with the confidentiality requirements of Section 58-61-602;

(6) provide timely and periodic review of the client records assigned to the supervisee;

(7) monitor the performance of the supervisee for compliance with laws, standards, and ethics applicable to the practice of psychology;

(8) submit appropriate documentation to the [~~d~~]Division with respect to work completed by the supervisee evidencing the performance of the supervisee during the period of supervised psychology training and mental health therapist training, including the supervisor's evaluation of the supervisee's competence in the practice of psychology and mental health therapy;

(9) ensure that the supervisee is certified by the Division as a psychology resident, or is enrolled in a psychology doctoral program and engaged in a training experience authorized by the educational program;

(10) ensure the psychologist supervisor is legally able to personally provide the services which the psychologist supervisor is supervising; and

(11) ensure the psychologist supervisor meets all other requirements for supervision as described in this section.

R156-61-302f. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licenses under Title 58, Chapter 61, is established by rule in Section R156-1-308a.

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

R156-61-302g. License Reinstatement - Requirements.

An applicant for reinstatement of [~~his~~]a license after two years following expiration of that license shall be required to:

(1) upon request meet with the [~~b~~]Board for the purpose of evaluating the applicant's current ability to safely and competently engage in practice as a psychologist and to make a determination of education, experience or examination requirements which will be required before reinstatement;

(2) upon the recommendation of the [~~b~~]Board, establish a plan of supervision under an approved supervisor which may include up to 4,000 hours of psychology and/or mental health therapy training;

(3) take or retake, and pass the Utah Psychology Law Examination; or the EPPP Examination, or both, if it is determined by the [~~b~~]Board it is necessary to demonstrate the applicant's ability to engage safely and competently in practice as a psychologist; and

(4) complete a minimum of 48 hours of professional education in subjects determined necessary by the [~~b~~]Board to ensure the applicant's ability to engage safely and competently in practice as a psychologist.

R156-61-302h. Continuing Education.

(1) There is hereby established a continuing [~~professional~~]education requirement for all individuals licensed or certified under Title 58, Chapter 61.

(2) During each two year period commencing on October 1 of each even numbered year:

(a) a licensed psychologist shall be required to complete not less than 48 hours of [~~qualified professional~~]continuing education directly related to the licensee's professional practice;

(b) a certified psychology resident shall be required to complete not less than 24 hours of [~~qualified professional~~]continuing education directly related to professional practice.

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

(4) [~~Qualified professional~~]Continuing 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 psychologist;

(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) Credit for [~~professional~~]continuing education shall be recognized in accordance with the following:

(a) Unlimited hours shall be recognized for [~~professional~~]continuing education completed in blocks of time of not less than one hour in formally established classroom courses, seminars, or conferences.

(b) A maximum of ten hours per two year period may be recognized for teaching in a college or university, teaching [~~qualified~~]continuing [~~education professional~~] education courses in the field of psychology, or supervision of an individual completing [~~his~~]the experience requirement for licensure as a psychologist.

(c) A minimum of six hours per two year period shall be completed in ethics/law.

(d) A maximum of six hours per two year period may be recognized for clinical readings directly related to practice as a psychologist.

(e) A maximum of 18 hours per two year period may be recognized for Internet or distance learning courses that includes an examination, a completion certificate and recognized by the American Psychological Association or a state or province psychological association.

(f) A maximum of six hours per two year period may be recognized for regular peer consultation, review and meetings if properly documented that the peer consultation, review and meetings meet the following requirements:

(i) have an identifiable clear statement of purpose and defined objective for the educational consultation/meeting directly related to the practice of a psychologist;

(ii) are relevant to the licensee's professional practice;

(iii) are presented in a competent, well organized manner consistent with the stated purpose and objective of the consultation/ meeting;

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

(v) have associated with it a competent method of registration of individuals who attended.

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

KEY: licensing, psychologists
Date of Enactment or Last Substantive Amendment: [~~May 8, 2008~~]2009
Notice of Continuation: February 10, 2009
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-61-101

Environmental Quality, Administration
R305-5
Health Reform -- Health Insurance Coverage in DEQ State Contracts -- Implementation

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 33102
FILED: 10/26/2009

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to comply with H.B. 331 of the 2009 Utah Legislative Session which created Section 19-1-206. To the extent specified in this statute, it requires that contracts entered into on or after 07/01/2009, have provisions requiring health insurance for employees and requires DEQ to define the requirements, procedures, and penalties by administrative rule. (DAR NOTE: H.B. 331 (2009) is found at Chapter 13, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: This rule is required by H.B. 331. It implements the statute and defines requirements, procedures, and penalties for implementation of Section 19-1-206. To the extent provided by the statute, contractors and subcontractors entering into a state contract must provide health insurance coverage for their employees that work in the State of Utah.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-1-206

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The state statute and implementing rule may indirectly increase the cost of the state contracts. The extent of the cost increase is unknown.
♦ LOCAL GOVERNMENTS: This revision does not create new requirements; no change in costs is expected for local governments.
♦ SMALL BUSINESSES: The state statute and rule may result in cost increases to contractors and subcontractors. The extent of the cost increase is unknown.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The state statute and rule may result in cost increases to contractors and subcontractors, but may benefit employees working for contractors. The extent of the cost increase is unknown.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Cost increases to contractors and subcontractors will likely be passed on to the State as part of the costs of the contract.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule does not create new requirements that are not already created by the statute. Therefore, no additional costs are expected.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Laura Lockhart by phone at 801-366-0283, by FAX at 801-366-0292, or by Internet E-mail at llockhart@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/23/2009

AUTHORIZED BY: Amanda Smith, Executive Director

R305. Environmental Quality, Administration.
R305-5. Health Reform -- Health Insurance Coverage in DEQ State Contracts -- Implementation.
R305-5-1. Purpose.

The purpose of this rule is to comply with the provisions of UCA Section 19-1-206.

R305-5-2. Authority.

This rule is established under UCA Section19-1-206(6) which authorizes the Department of Environmental Quality to make rules governing health insurance in certain design and construction contracts.

R305-5-3. Definitions.

"Employee" means an "employee," "worker," or "operative" as defined in UCA Section 34A-2-104 who works in the State at least 30 hours per calendar week, and meets employer eligibility waiting requirements for health care insurance which may not exceed 90 days from the date of hire.

(2) "Health benefit plan" has the same meaning as provided in UCA Section 31A-1-301.

(3) "Qualified health insurance coverage" means a health benefit plan that at the time the contract is entered into or renewed:

(a) provides coverage that is actuarially equivalent to the current benefit plan determined by the Children's Health Insurance Program under Section 26-40-106, and under which the employer pays at least 50% of the premium for the employee and the dependents of the employee;

(b) is a federally qualified high deductible health plan that has the lowest deductible permitted for a federally qualified high deductible health plan and an out of pocket maximum that does not exceed three times the amount of the annual deductible, and under which the employer pays 75% of the premium for the employee and the dependents of the employee; or

(c) provides coverage that is actuarially equivalent to 75% of the benefit plan determined under R305-5-3(3)(a), and under which the employer pays at least 75% of the premium of the employee and the dependents of the employee.

(4) "Subcontractor" has the same meaning provided for in UCA Section 63A-5-208.

R305-5-4. Applicability of Rule.

(1) Except as provided in Subsection R305-5-4(2) below, this rule R305-5 applies to all contracts entered into by or delegated to the department or a division or board of the department on or after July 1, 2009, if:

(a) the contract is for design and construction; and

(b) the prime contract is in the amount of $1,500,000 or greater; or a subcontract is in the amount of $750,000 or greater.

(2) This rule R305-5 does not apply to contracts entered into by the department or a division or board of the department if:

(a) the application of this rule R305-5 jeopardizes the receipt of federal funds;

(b) the contract or agreement is between the department or a division or board of the department and another agency of the state, the federal government, another state, an interstate agency, a political subdivision of this state; or a political subdivision of another state;

(c) the executive director determines that applying the requirements of this section to a particular contract interferes with the effective response to an immediate health and safety threat from the environment; or

(d) the contract is a sole source contract or an emergency procurement.

(3) This rule R305-5 does not apply to a change order as defined in UCA Section 63G-6-102, or a modification to a contract, when the contract does not meet the initial threshold required by R305-5-4(1).

R305-5-5. Compliance Requirement.

A contractor or subcontractor that is subject to the requirements of R305-5 shall have and will maintain an offer of qualified health insurance coverage for the contractor's or subcontractor's employees and dependents during the duration of the contract.

R305-5-6. Demonstration of Compliance.

(1) A contractor or subcontractor subject to this rule R305-5 shall demonstrate compliance with R305-5-5 by submitting to the department a written certification of compliance initially no

later than the time of the execution of the contract by the contractor and thereafter on an annual basis unless the department requests a biannual certification.

(2) The written certification of compliance shall include information demonstrating that qualified health insurance coverage as defined in R305-5-3(3) is being offered. The actuarially equivalent determination in R305-5-3(3) is met by the contractor or subcontractor if the contractor or subcontractor provides the department with a written statement of actuarial equivalency from either the Utah Insurance Department or an actuary selected by the contractor or subcontractor or their insurer.

R305-5-7. Effect of Failure to Comply.

The failure of a contractor or subcontractor to provide health insurance as required by R305-5-5 may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under UCA Section 63G-6-801 or any other provision in UCA 63G, Chapter 6, Part 8, Legal and Contractual Remedies, and may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt or terminate the design or construction.

R305-5-8. Penalties, Sanctions, and Liabilities.

(1) Pursuant to UCA Section 19-1-206(4)(b), a person who intentionally uses change orders or contract modifications to circumvent the requirements of subsection R305-5-5 and R305-5-6 is guilty of an infraction.

(2) Pursuant to UCA Section 19-1-303 and UCA Section 19-1-206(6), a contractor or subcontractor who fails to comply with R305-5-5 and R305-5-6 is subject to an administrative civil penalty of up to $5000 per day, except that monetary penalties may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and the dependents of an employee of the contractor or subcontractor who was not offered qualified health insurance coverage during the duration of the contract.

(3) If a contractor or subcontractor intentionally violates the provisions of R305-5-5, the contractor or subcontractor is subject to:

(a) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation, regardless of which tier the contractor or subcontractor is involved with the future design and/or construction contract;

(b) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation, regardless of which tier the contractor or subcontractor is involved with the future design and/or construction contract; and

(c) an action for debarment of the contractor or subcontractor in accordance with UCA Section 63G-6-804 upon the third or subsequent violation.

(4) In addition to the penalties imposed under R305-5-8 and the referenced statutes and rules, a contractor or subcontractor who violates the provisions of UCA Section 19-1-206 and R305-5, pursuant to UCA Section 19-1-206(7), shall be liable to the employee for health care costs not covered by insurance.

KEY: contract requirements, health insurance
Date of Enactment or Last Substantive Amendment: 2010
Authorizing, and Implemented or Interpreted Law: 19-1-206

Financial Institutions, Nondepository Lenders
R343-2
Mortgage Lenders, Brokers and Servicers Fees

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 33094
FILED: 10/26/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: With the passage of H.B. 286, during the 2009 General Session of the Utah Legislature, the department shall by rule set fees to be paid to the commissioner. (DAR NOTE: H.B. 286 (2009) is found at Chapter 72, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: The proposed new rule sets an annual renewal fee and examination fees to be paid to the commissioner.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 70D-2-203

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: The proposed new rule will not require additional appropriations.

♦ LOCAL GOVERNMENTS: Local governments are not involved in regulating mortgage loan originators and are therefore not subject to this rule.

♦ SMALL BUSINESSES: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 ("SAFE Act"), was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the Nationwide Mortgage Licensing System and Registry (NMLS). As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of licensure under a federal mandate.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The SAFE Act was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the Nationwide Mortgage Licensing System and Registry (NMLS). As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of licensure under a federal mandate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The SAFE Act was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the NMLS. As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of licensure under a federal mandate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The SAFE Act was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the NMLS. As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of licensure under a federal mandate.

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

FINANCIAL INSTITUTIONS
NONDEPOSITORY LENDERS
ROOM 201
324 S STATE ST
SALT LAKE CITY, UT 84111-2393
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: ♦ Paul Allred by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at pallred@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: Edward Leary, Commissioner

R343. Financial Institutions, Nondepository Lenders.
R343-2. Mortgage Lenders, Brokers and Servicers Fees.
R343-2-1. Authority, Scope and Purpose.

(1) This rule is issued pursuant to Section 70D-2-203.

(2) This rule applies to mortgage lenders, brokers or servicers who are required to file a written notification with the commissioner.

(3) This rule establishes the annual notification renewal and examination fees.

R343-2-2. Definitions.

(1) "Commissioner" means the Commissioner of Financial Institutions.

(2) "Department" means the Department of Financial Institutions.

R343-2-3. Annual Notification Renewal Fee.

(1) Each person required to file an annual notification renewal shall pay the commissioner a fee of $100.

R343-2-4. Examination Fee.

(1) A mortgage lender, broker or servicer who is examined by the department shall pay the commissioner a per diem assessment calculated at the rate of $55 per hour:

(i) for each examiner; and

(ii) per hour worked.

KEY: mortgage
Date of Enactment or Last Substantive Amendment: 2009
Authorizing, and Implemented or Interpreted Law: 70D-3-102

Financial Institutions, Nondepository Lenders
R343-3
Mortgage Lenders, Brokers and Servicers Definitions

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 33095
FILED: 10/26/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to define terms.

SUMMARY OF THE RULE OR CHANGE: This rule provides definitions that apply to mortgage lenders, brokers, or servicers who engage in the business of mortgage lending, brokering, or servicing and are required to license with the commissioner.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 70D-3-102

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The proposed new rule will not require additional appropriations.
♦ LOCAL GOVERNMENTS: Local governments are not involved in regulating mortgage loan originators and are therefore not subject to this rule.
♦ SMALL BUSINESSES: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 ("SAFE Act") was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the Nationwide Mortgage Licensing System and Registry (NMLS). As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate. (DAR NOTE: H.B. 286 (2009) is found at Chapter 72, Laws of Utah 2009, and was effective 05/12/2009.)
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The SAFE Act was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the NMLS. As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The SAFE Act was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the NMLS. As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The SAFE Act was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the NMLS. As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
FINANCIAL INSTITUTIONS
NONDEPOSITORY LENDERS
ROOM 201
324 S STATE ST
SALT LAKE CITY, UT 84111-2393
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Paul Allred by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at pallred@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: Edward Leary, Commissioner

R343. Financial Institutions, Nondepository Lenders.
R343-3. Mortgage Lenders, Brokers and Servicers Definitions.
R343-3-1. Authority, Scope and Purpose.

(1) This rule is issued pursuant to Section 70D-3-102.

(2) This rule applies to mortgage lenders, brokers or servicers who engage in the business of mortgage lending, brokering or servicing and are required to license with the commissioner.

(3) The purpose of this rule is to define terms.

R343-3-2. Definitions.

(1) "Affiliate" means any company which controls, is controlled by, or is under common control with a depository institution that is subject to the jurisdiction of a federal banking agency.

(2) "Form MU4" means the Uniform Individual Mortgage License/Registration and Consent form adopted by the nationwide database.

(3) "Owned and controlled by a depository institution" means a subsidiary entity that is owned by a parent financial institution that has direct or indirect power to direct or exercise a controlling influence over management or policies.

KEY: mortgage
Date of Enactment or Last Substantive Amendment: 2009
Authorizing, and Implemented or Interpreted Law: 70D-3-102

Financial Institutions, Nondepository Lenders
R343-4
Application Forms and Procedures for Mortgage Lenders

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 33096
FILED: 10/26/2009

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: With the passage of H.B. 286, during the 2009 General Session of the Utah Legislature, the department shall by rule establish the form, content, and procedure for filing applications for licensure. (DAR NOTE: H.B. 286 (2009) is found at Chapter 72, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: This rule prescribes license application form specifications, contents, and procedures for submitting the application.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 70D-3-203

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The proposed new rule will not require additional appropriations.
♦ LOCAL GOVERNMENTS: Local governments are not involved in regulating mortgage loan originators and are therefore not subject to this rule.
♦ SMALL BUSINESSES: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 ("SAFE Act"), was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the Nationwide Mortgage Licensing System and Registry (NMLS). As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The SAFE Act was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the NMLS. As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The SAFE Act was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the NMLS. As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The SAFE Act was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the NMLS. As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate.

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ROOM 201
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SALT LAKE CITY, UT 84111-2393
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Paul Allred by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at pallred@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: Edward Leary, Commissioner

R343. Financial Institutions, Nondepository Lenders.
R343-4. Application Forms and Procedures for Mortgage Lenders.
R343-4-1. Authority, Scope and Purpose.
(1) This rule is issued pursuant to Section 70D-3-203.
(2) This rule applies to mortgage lenders who engage in the business of mortgage lending and are required to license with the commissioner.
(3) This rule prescribes license application form specifications, contents and procedures for submitting the application.

R343-4-2. Mortgage Loan Originator License Application.
(1) Applicants for an initial or renewal license shall complete forms and follow procedures prescribed by the nationwide database.

KEY: mortgage
Date of Enactment or Last Substantive Amendment: 2009
Authorizing, and Implemented or Interpreted Law: 70D-3-203

Financial Institutions, Nondepository Lenders
R343-5
Mortgage Loan Originator Surety Bond Requirements

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 33097
FILED: 10/26/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule establishes surety bond requirements for mortgage loan originator licensees.

SUMMARY OF THE RULE OR CHANGE: This rule applies to mortgage loan originators who are required to license with the department under Title 70D and establishes surety bond requirements for licensees.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 70D-3-205

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The proposed new rule will not require additional appropriations.
♦ LOCAL GOVERNMENTS: Local governments are not involved in regulating mortgage loan originators and are therefore not subject to this rule.
♦ SMALL BUSINESSES: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 ("SAFE Act"), was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the Nationwide Mortgage Licensing System and Registry (NMLS). As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate. (DAR NOTE: H.B. 286 (2009) is found at Chapter 72, Laws of Utah 2009, and was effective 05/12/2009.)
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The SAFE Act was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the NMLS. As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The SAFE Act was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the NMLS. As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The SAFE Act was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards

and the participation of state agencies on the NMLS. As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate.

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THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: Edward Leary, Commissioner

R343. Financial Institutions, Nondepository Lenders.
R343-5. Mortgage Loan Originator Surety Bond Requirements.
R343-5-1. Authority, Scope and Purpose.

(1) This rule is issued pursuant to Section 70D-3-205.

(2) This rule applies to mortgage loan originators who are required to license with the department.

(3) This rule establishes surety bond requirements for mortgage loan originator licensees.

R343-5-2. Surety Bond Requirements.

(1) An individual who applies for a mortgage loan originator license must be covered by a surety bond satisfactory to the department in a sum based on the dollar amount of loans originated, as shown below, to reimburse the state for expenses it may incur in connection with any administrative or judicial proceeding against a current or former licensee relating to mortgage lending activity in Utah.

(2) The annual origination volume for each individual residential mortgage loan originator is the basis for determining that individual's required bond amount. Annual origination volume is the sum of the amounts of all loans the individual originated, arranged, booked, brokered, funded, made, or otherwise included in the individual's personal loan production volume during the prior calendar year.

(3) If the annual origination volume for the individual was:

(a) up to $5 million, the required bond amount is $12,500; or

(b) $5 to $15 million, the required bond amount is $25,000; or

(c) over $15 million, the required bond amount is $50,000.

R343-5-3. Business Entity Surety Bond Requirements.

(1) This section does not require business entities to be licensed or bonded, but qualified business entities may elect to provide bond coverage on behalf of mortgage loan originators working exclusively for the entity instead of the individual originator providing a separate surety bond. To be eligible for this option:

(a) A business entity must file an acceptable notification or register with the department in accordance with Chapter 70C, Utah Consumer Credit Code; Chapter 70D, Financial Institution Mortgage Financing Regulation Act; or, other Utah statutes or rules administered by the department, and

(b) the bond must cover the activities of the licensed mortgage loan originator.

(2) The annual residential mortgage loan origination volume for the business entity is the basis for determining an entity's required bond amount. Annual origination volume is the sum of the amounts of all Utah loans the entity originated, arranged, booked, brokered, funded, made, or otherwise included in the entity's loan production volume during the prior calendar year.

(3) If the annual origination volume for the business entity was:

(a) up to $10 million, the required bond amount is $25,000; or

(b) $10 to $30 million, the required bond amount is $50,000; or

(c) over $30 million, the required bond amount is $100,000.

KEY: mortgage
Date of Enactment or Last Substantive Amendment: 2009
Authorizing, and Implemented or Interpreted Law: 70D-3-205

Financial Institutions, Nondepository Lenders
R343-6
Mortgage Loan Originator Challenge of Nationwide Database Information

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 33098
FILED: 10/26/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule establishes the procedure to challenge information in the nationwide database.

SUMMARY OF THE RULE OR CHANGE: A mortgage loan originator or applicant may challenge the factual accuracy of information entered by the department into the nationwide database. This rule establishes the procedure to challenge that information.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 70D-3-206

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The proposed new rule will not require additional appropriations.
♦ LOCAL GOVERNMENTS: Local governments are not involved in regulating mortgage loan originators and are therefore not subject to this rule.
♦ SMALL BUSINESSES: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 ("SAFE Act"), was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the Nationwide Mortgage Licensing System and Registry (NMLS). As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate. (DAR NOTE: H.B. 286 (2009) is found at Chapter 72, Laws of Utah 2009, and was effective 05/12/2009.)
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The SAFE Act was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the NMLS. As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The SAFE Act was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the NMLS. As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The SAFE Act was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the NMLS. As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate.

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DIRECT QUESTIONS REGARDING THIS RULE TO:
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THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: Edward Leary, Commissioner

R343. Financial Institutions, Nondepository Lenders.
R343-6. Mortgage Loan Originator Challenge of Nationwide Database Information.
R343-6-1. Authority, Scope and Purpose.
(1) This rule is issued pursuant to Section 70D-3-206.
(2) This rule applies to mortgage loan originators who are required to license with the department.
(3) This rule establishes the procedure to challenge information in the nationwide database.

R343-6-2. Challenging Information Entered by the Department in the Nationwide Database.
(1) A mortgage loan originator or applicant may challenge the factual accuracy of information entered by the department into the nationwide database.
(2) The challenge must be in writing and delivered to the commissioner. The challenge must clearly state what information is being contested and include supporting evidence.
(3) The commissioner may cause the appropriate supervisor to make an investigation and consider the merits of the challenge and provide a written response.

KEY: mortgage
Date of Enactment or Last Substantive Amendment: 2009
Authorizing, and Implemented or Interpreted Law: 70D-3-206

Financial Institutions, Nondepository Lenders
R343-7
Mortgage Loan Originator Education and Written Test Requirements

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 33099
FILED: 10/26/2009

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule establishes education and written test requirements for mortgage loan originators who are required to be licensed under Title 70D.

SUMMARY OF THE RULE OR CHANGE: An applicant must satisfy pre-licensing education and written testing requirements to be eligible to apply for a mortgage loan originator license under Title 70D. This rule establishes these requirements.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 70D-3-301 and Section 70D-3-302 and Section 70D-3-303

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The proposed new rule will not require additional appropriations.
♦ LOCAL GOVERNMENTS: Local governments are not involved in regulating mortgage loan originators and are therefore not subject to this rule.
♦ SMALL BUSINESSES: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 ("SAFE Act"), was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the Nationwide Mortgage Licensing System and Registry (NMLS). As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate. (DAR NOTE: H.B. 286 (2009) is found at Chapter 72, Laws of Utah 2009, and was effective 05/12/2009.)
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The SAFE Act was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the NMLS. As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The SAFE Act was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the NMLS. As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The SAFE Act was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the NMLS. As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate.

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THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: Edward Leary, Commissioner

R343. Financial Institutions, Nondepository Lenders.
R343-7. Mortgage Loan Originator Education and Written Test Requirements.
R343-7-1. Authority, Scope and Purpose.

(1) This rule is issued pursuant to Sections 70D-3-301, 70D-3-302 and 70D-3-303.

(2) This rule applies to mortgage loan originators who are required to license with the department.

(3) This rule establishes education and written test requirements.

R343-7-2. Education and Written Test Requirements.

(1) An applicant must satisfy pre-licensing education and written testing requirements to be eligible to apply for a mortgage loan originator license.

(2) An applicant must complete at least twenty (20) hours in pre-licensing education courses that are approved by the nationwide database and includes the curriculum specified in Section 70D-3-301.

(3) In order to pass a written test an applicant must achieve a test score of not less than 75 percent correct answers on a written test meeting the standards described in Section 70D-3-302.

(a) An individual who fails such a written test by scoring less than 75 percent correct may be retested up to three times provided each test is taken at least 30 days after the prior test.

(b) An individual who fails all three retests must wait at least six months before taking the written test again.

(c) A licensee who fails to maintain a valid license for a period longer than 5 years, excluding any time during which that individual is a "registered loan originator" as defined in Section 70D-3-102, must retake the written test and must achieve a score of not less than 75 percent correct in order to be eligible for license renewal.

(4) Continuing education is required for annual license renewal.

(a) Annually, a licensee must complete at least eight (8) hours of continuing education courses that are approved by the nationwide database and include curriculum specified in Section 70D-3-303.

(b) A licensee may receive credit for a course only during the year in which the course is taken. If a licensee repeats an approved course during the same or a successive year, the licensee may not receive continuing education credit for retaking the same course.

KEY: mortgage
Date of Enactment or Last Substantive Amendment: 2009
Authorizing, and Implemented or Interpreted Law: 70D-3-301; 70D-3-302; 70D-3-303

Financial Institutions, Nondepository Lenders
R343-8
Mortgage Loan Originator Record Requirements and Reports of Condition

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 33100
FILED: 10/26/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to require that appropriate business records are created, maintained, submitted, and produced for inspection.

SUMMARY OF THE RULE OR CHANGE: A mortgage loan originator required to be licensed under Title 70D is required to create records related to the underwriting, valuation of collateral, or extension of credit for a mortgage loan. This rule establishes these requirements.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 70D-3-401

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: The proposed new rule will not require additional appropriations.

♦ LOCAL GOVERNMENTS: Local governments are not involved in regulating mortgage loan originators and are therefore not subject to this rule.

♦ SMALL BUSINESSES: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 ("SAFE Act"), was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the Nationwide Mortgage Licensing System and Registry (NMLS). As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate. (DAR NOTE: H.B. 286 (2009) is found at Chapter 72, Laws of Utah 2009, and was effective 05/12/2009.)

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The costs for conducting business as a mortgage loan originator, for those who were not previously required to

license in the State of Utah, will increase. The SAFE Act was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the NMLS. As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The SAFE Act was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the NMLS. As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The costs for conducting business as a mortgage loan originator, for those who were not previously required to license in the State of Utah, will increase. The SAFE Act was passed by Congress on 07/30/2008. The SAFE Act gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the participation of state agencies on the NMLS. As a result, the 2009 General Session of the Utah Legislature, passed H.B. 286 which requires individuals who transact business under Title 70D to be licensed to meet the requirements of the federal mandate.

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THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: Edward Leary, Commissioner

R343. Financial Institutions, Nondepository Lenders.

R343-8. Mortgage Loan Originator Record Requirements and Reports of Condition.

R343-8-1. Authority, Scope and Purpose.

(1) This rule is issued pursuant to Section 70D-3-401.

(2) This rule applies to mortgage loan originators who are required to license with the commissioner.

(3) The purpose of this rule is to require that appropriate business records are created, maintained, submitted and produced for inspection.

R343-8-2. Record Requirements.

(1) An individual required to be licensed shall create records related to the underwriting, valuation of collateral, or extension of credit for a mortgage loan. Records must be maintained for the period specified in the statute and provided to the commissioner upon the commissioner's request.

R343-8-3. Reports of Condition.

(1) A report of condition required by the nationwide database shall be provided to the commissioner upon the commissioner's request.

KEY: mortgage
Date of Enactment or Last Substantive Amendment: 2009
Authorizing, and Implemented or Interpreted Law: 70D-3-102

Governor, Criminal and Juvenile Justice (State Commission on)

R356-1

Procedures for the Calculation and Distribution of Funds to Reimburse County Correctional Facilities Housing State Probationary Inmates or State Parole Inmates

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 33073
FILED: 10/21/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The passage of H.B 220 in the 2009 General Session amended Title 64, Chapter 13e, of the Utah Code regarding the payment and reimbursement to county correctional facilities for housing state inmates. Counties that previously submitted reports to the Department of Correction regarding the housing of state probationary inmates or state parole inmates for payment and reimbursement are now

required to submit those reports to the Commission of Criminal and Juvenile Justice (CCJJ). CCJJ was given rulemaking authority, Subsection 64-13e-104(5)(b), to establish procedures for the calculation of payment and reimbursement to the counties. (DAR NOTE: H.B. 220 (2009) is found at Chapter 56, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: Prior to the passage of H.B 220 in the 2009 General Session, the Department of Corrections was responsible to administer the Jail Reimbursement Program and establish the conditions and procedures for payment to county correctional facilities for housing state probationary or state parole inmates. The new rule establishes the Commission of Criminal and Juvenile Justice (CCJJ) as the responsible agency to administer the Jail Reimbursement Program and establishes the conditions and procedures for payment to county correctional facilities for housing state probationary inmates or state parole inmates. The new rule also establishes the change requiring the Department of Corrections to make the payment to the counties to requiring the Division of Finance to make the payment.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 64-13e-104(5)(b)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings impact with this proposed rule. The proposed rule establishes the administrative change regarding the payment and reimbursement to county correctional facilities for housing state probationary inmates or state parole inmates required from the Department of Corrections to the Commission on Criminal and Juvenile Justice and the Division of Finance as required by H. B. 220 of the 2009 General Session.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings impact on local governments. The proposed rule changes the administration of the jail payment and reimbursement program. The proposed rule change requires counties to submit the same reports to the Commission of Criminal and Juvenile Justice instead of the Department of Corrections.
♦ SMALL BUSINESSES: There is no anticipated cost or saving impact on small businesses. The proposed rule changes the administration of the jail payment and reimbursement program. Small businesses are not involved in the housing of state probationary inmates or state parole inmates and therefore will not be impacted by this proposed rule.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to any other person. The proposed rule changes the administration of the jail payment and reimbursement program. Only county correctional facilities house state probationary inmates or state parole inmates, therefore other persons will not be impacted by this proposed rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed rule transfers the administration of the jail reimbursement program from the Department of Corrections to the Commission on Criminal and Juvenile Justice. There are no costs associated for compliance with this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule establishes the procedure for the calculation and distribution of funds to counties for the housing of state probationary inmates or state parole inmates. County correctional facilities are the only entities that house state probationary or state parole inmates; there would be no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
GOVERNOR
CRIMINAL AND JUVENILE JUSTICE
(STATE COMMISSION ON)
ROOM SUITE 330 SENATE BUILDING
STATE CAPITOL COMPLEX
420 N STATE STREET
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ David Loden by phone at 801-538-1057, by FAX at 801-538-1024, or by Internet E-mail at dloden@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2010

AUTHORIZED BY: David Loden, Program Specialist

R356. Governor, Criminal and Juvenile Justice (State Commission on).
R356-1. Procedures for the Calculation and Distribution of Funds to Reimburse County Correctional Facilities Housing State Probationary Inmates or State Parole Inmates.
R356-1-1. Authority and Purpose.
(1) This rule is authorized in accordance with Subsection 64-13e-104(5)(b).
(2) The purpose of this rule is to establish procedures to reimburse counties for incarcerating state probationary inmates or state parole inmates and to determine the rate at which the counties shall be reimbursed.

R356-1-2. Definitions.
In addition to terms defined in Section 64-13e-102:
(1) "Total Inmate Days" means the total number of eligible probationary and state parole inmate incarceration days.
(2) "Business Day" means Monday through Friday excluding holidays.

R356-1-3. Conditions for Reimbursement of State Probationary Inmates.

Counties shall be eligible for reimbursement for days served in county correctional facilities under the following conditions:

(1) The inmate has been convicted of a felony, and as a condition of probation, has been sentenced to a county correctional facility for a period not exceeding one year. The reimbursement period will begin with the sentencing date.

(2) Days served under Subsection 1 which are eligible for reimbursement may include:

(a) Consecutive felony probation jail sentences, pursuant to Section 76-3-401;

(b) The inmate is sentenced by the courts to a county correctional facility following a violation of felony probation (Order to Show Cause). If the inmate's probation has been terminated it must be reinstated for the county to be eligible for reimbursement;

(c) The inmate is sentenced by the courts to a county correctional facility after a court has formally entered a guilty plea that had been held in abeyance as a conviction.

R356-1-4. Conditions Not Eligible for Reimbursement of State Probationary Inmates.

Counties are not eligible for reimbursement for incarcerating inmates in the following circumstances:

(1) Time served in a county correctional facility prior to sentencing, notwithstanding an order from the court for credit for time served;

(2) Time served in a county correctional facility following an unsuccessful termination of probation;

(3) Time served in a county correctional facility under a Plea in Abeyance agreement prior to the entering of the guilty plea as a conviction in the case;

(4) Time served on a felony probation sentence outside a correctional facility on electronic monitoring;

(5) Time served in a county correctional facility on a federal Immigration and Customs Enforcement hold beyond the number of days sentenced to jail by the Courts, even if probation is still in effect;

(6) Time served in a county correctional facility under the jurisdiction of the Juvenile Court;

(7) Time served in a county correctional facility on a probationary 3-day hold.

R356-1-5. Conditions for Reimbursement of State Parole Inmates.

(1) Counties shall be eligible for reimbursement for days served in county correctional facilities by state parole inmates when the inmate is being held on a 3-day hold issued by the Board of Pardons and Parole.

(2) Counties shall be reimbursed for state parole inmates on a 3-day hold for up to 3 business days plus weekends and holidays for a maximum of 6 days of reimbursement per 3 day hold.

R356-1-6. Monthly Billing Invoices.

(1) Counties requesting reimbursement for incarcerating state probationary inmates or state parole inmates shall submit, on a monthly basis, the following information to CCJJ:

(a) Inmate name;

(b) Court case number(s) authorizing jail as a condition of probation;

(c) Sentencing date;

(d) Incarceration start date;

(e) Release date from correctional facility;

(f) Total number of state inmates (probation and parole) for which the county is requesting reimbursement; and

(g) Total number of state probationary inmate days of incarceration and total number of state parole inmate days of incarceration for which the county is requesting reimbursement.

(2) Counties shall be reimbursed for all inmate incarceration days (felony probation and felony parole) beginning on the first day of incarceration after sentencing (day of sentencing shall be included), but never the last day of incarceration (day of release). Counties incarcerating inmates beyond eligible sentence days shall only be reimbursed for those days the inmate was eligible for reimbursement.

(3) Monthly billing invoices shall be submitted to CCJJ by the 10th business day of each month unless prior approval has been authorized by the Executive Director of CCJJ or designee.

(4) CCJJ shall audit each billing invoice for accuracy, using Utah State Courts X-Change program and Department of Corrections Otrack-Ftrack data systems to verify information. When necessary, CCJJ shall contact the correctional facility or sentencing court to verify accuracy of information.

(5) Back billings or late billings are eligible for reimbursement within the same fiscal year period. The 10th business day of August shall be the final day to submit late billings for the previous fiscal year.

(6) For each monthly billing invoice submitted, CCJJ shall return to the county:

(a) An approval sheet listing total inmate days of incarceration submitted to the Division of Finance for reimbursement; and

(b) A copy of the original billing invoice with any corrections that were made to the original billing.

(7) CCJJ may request counties to submit additional information regarding inmate booking and release when necessary to complete invoice audits.

R356-1-7. Calculation of Payments to Counties for Reimbursement for Housing State Probationary Inmates and State Parole Inmates.

To ensure compliance with Subsection 64-13e-104(5)(c), CCJJ shall prepare two calculations of payment for counties. CCJJ shall determine which calculation to use based upon funds appropriated by the Legislature for payment.

(1) When funds appropriated by the Legislature are sufficient to reimburse counties at a rate of 50% of the final daily incarceration rate for the preceding fiscal year established pursuant to Section 64-13-105, the Division of Finance shall reimburse each county that houses a state probationary inmate or state parole inmate at a rate of 50% of the state daily incarceration rate multiplied by the total inmate days of incarceration established in the Administrative Rule Section R356-1-6 for the preceding fiscal year.

(2) When funds appropriated by the Legislature are not sufficient to reimburse counties under Subsection 64-13e-104(2), each county that houses a state probationary inmate or state parole

inmate shall be reimbursed by a rate calculated on a pro rata basis, based on the total inmate days of incarceration that were approved for each county for the preceding fiscal year. The funds appropriated by the legislature will be divided by the total of inmate days of incarceration of all counties to establish a pro rata rate. Each county shall be reimbursed by multiplying the pro rata rate established under this subsection by the total inmate days of incarceration for each county established in this Administrative Rule Section R356-1-6 for the preceding fiscal year.

KEY: jail reimbursement, state probationary inmates, state parole inmates
Date of Enactment or Last Substantive Amendment: January 7, 2010
Authorizing, and Implemented or Interpreted Law: 64-13e-104

Health, Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health
R388-805
Ryan White Program

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33086
FILED: 10/22/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to change the eligibility requirements for services from 400% of the Federal Poverty Level (FPL) to 250% of the FPL due to projected shortfalls in the Program.

SUMMARY OF THE RULE OR CHANGE: In Subsection R388-805-6(2), reduces eligibility requirement from 400% of the FPL to 250% of the FPL. (DAR NOTE: A corresponding 120-day (emergency) rule that is effective as of 10/23/2009 is under DAR No. 33085 in this issue, November 15, 2009, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-15 and Section 26-1-18 and Section 63G-3-202 and Subsections 26-1-30(2)(a), (b), (c)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: A portion of the state's budget can be considered a savings. This is a federally-funded program that provides services to people living with HIV/AIDS. It is anticipated that there will be a projected savings of up to $375,000 to ensure that the Program will stay within its budget. However, there are various variables that do not allow us to accurately project the savings.
♦ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government because the program governed by this rule neither requires action from nor provides benefits to local governments.
♦ SMALL BUSINESSES: There are no anticipated costs or savings to small businesses because the program governed by this rule neither requires action from nor provides benefits to small business.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The rule change will affect individuals who are over the 250% FPL. They will now have to pay the costs associated with their medications and/or health insurance premiums and other support services offered by this program such as dental and mental health services. It is anticipated that there will be a projected savings of up to $375,000 to ensure that the Program will stay within its budget. However, there are various variables that do not allow us to accurately access the savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are compliance costs associated with this rule change. There are numerous variables that can impact the costs such as if individuals decide to continue to take their medication or not paying for health insurance premiums that the Program was previously paying for. The Department estimates that this change will affect 90 people currently on the program and an estimated 120 people who would otherwise be eligible per year. The costs can range from $1,200 to $13,000 per person per year. The range depends upon whether or not clients are responsible for full pay or partial pay for their services.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change is necessary to keep this program within available budget.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
EPIDEMIOLOGY AND LABORATORY SERVICES;
HIV/AIDS, TUBERCULOSIS CONTROL/
REFUGEE HEALTH
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:
♦ Jennifer Brown by phone at 801-538-6131, by FAX at 801-538-9913, or by Internet E-mail at jenniferbrown@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: David Sundwall, MD, Executive Director

R388. Health, Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health.
R388-805. Ryan White Program.
R388-805-3. Nature of Program and Benefits.

(1) The Ryan White Program provides reimbursement to providers for services rendered to HIV positive individuals who meet the eligibility requirements. The Ryan White Program provides limited services as described in this rule. The Department provides reimbursement coverage under the program only for services for each program:

(a) as provided in law governing the Ryan White HIV/AIDS Treatment Modernization Act of 2006;

(b) as described and limited in the Treatment and Care Program Comprehensive Plan, dated [~~January 2007~~]January 2009, which is adopted and incorporated by reference, and all applicable laws and rules;

(c) to the extent that it has agreed to reimburse providers with whom it contracts to provide services; and

(d) as limited in manuals that form part of its Provider Agreements or contracts with providers.

(2) Within available funding, the Department provides the following services under the Ryan White Program;

(a) The AIDS Drug Assistance Program (ADAP) provides HIV related medications;

(b) The Health Insurance Continuation Program pays for health insurance premiums and medication co-pays;

(c) Supportive Services Program provides a variety of supportive services that enable the client to access medical care as well as to retain the client in medical care.

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

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

R388-805-6. Ryan White Program Eligibility.

(1) To receive services under the Ryan White Program, an individual must be a Utah resident and must have a medical diagnosis of HIV infection as verified by the individuals's physician.

(a) An individual may own one home and one registered vehicle but may not have any other assets over $5,000.00.

(b) If an individual owns a vehicle that is not registered and is considered an asset by Medicaid, which then prevents the individual from receiving benefits from Medicaid, the individual is also ineligible for services under the Ryan White Program.

(c) If an individual is ineligible for Medicaid due to failing Medicaid asset limits but otherwise meet Medicaid eligibility requirements, the individual is also ineligible for services under the Ryan White Program.

(2) To receive services under the AIDS Drugs Assistance Program, the Health Insurance Continuation Program and the Supportive Services Program, an individual must have income not exceeding [~~400%~~]250% of the federal poverty level by providing any of the following:

(i) Immediate year Tax Return.

(ii) Immediate year W-2 Form(s).

(iii) Most recent pay Stub/Earnings Statement.

(iv) Most recent Social Security Disability Income Letter.

(v) Most recent Supplemental Security Income Letter.

(vi) Most recent Unemployment Statement.

(vii) Most recent General Assistance Letter from the Department of Workforce Services.

(viii) Most recent Disability Income Letter from a disability insurer.

(3) To be eligible to receive assistance from the AIDS Drug Assistance Program, an individual:

(a) must not be eligible for Medicaid and not covered for the medication requested through this program by any other public or private health insurance coverage;

(b) must have a prescription for the medication requested.

(4) To participate in the Health Insurance Continuation Program, an individual must currently take HIV anti-retroviral medications.

(5) To participate in the Consolidated Omnibus Budget Reconciliation Act (COBRA) Continuation program an individual must meet the following additional eligibility criteria:

(a) The individual must have a medical diagnosis of HIV disease or is a dependent with HIV disease who is covered under the health insurance of someone else;

(b) The policy covers HIV related costs and outpatient HIV related drugs;

(c) The policy can be converted under COBRA;.

(d) The individual has not previously been denied health insurance coverage for HIV disease related services;

(e) The individual must be ineligible for Medicaid or for group/individual health insurance from the individual's current employer;

(f) The individual must have begun the process of securing income support through the Social Security Disability Insurance (SSDI), or the Supplemental Security Income (SSI) or other disability programs if the individual is disabled, or have applied to receive public entitlement benefits.

(6) Clients must re-certify annually in order to continue program participation.

KEY: treatment and care, HIV/AIDS, ADAP, Ryan White Program
Date of Enactment or Last Substantive Amendment: [~~October 17, 2007~~]2009
Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-1-15; 26-1-18; 26-1-30(2)(a), (b), (c), (g)

Health, Epidemiology and Laboratory Services, Environmental Services
R392-303
Public Geothermal Pools and Bathing Places

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33076
FILED: 10/21/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendments to this rule provide for improved uniformity of enforcement, clarify some requirements, and add alternative ways for pool operators to comply with the rule. The amendment also corrects the enforcement and penalties provision to comply with recent legislation.

SUMMARY OF THE RULE OR CHANGE: The amendments require Department of Health approval of any treatment process for geothermal water rather than Local Heath Officer approval. The amendments clarify the requirement for an operator to post a recommended restriction for bathers using geothermal water that exceeds EPA standards rather than implement a restriction. The amendments make the operator responsible to alter flow rates, bather loads, or both if bacteriological water quality standards cannot be met. The rule now allows the Local Health Officer to require the alteration. The amendments allow a pool that is operated with disinfection, circulation, and filtration to operate without flow-through of geothermal water. The amendments allow temperatures to be measured by the operator manually rather than with a fixed thermometer and allow alternative methods of flow measurement besides a fixed flow indicator. The amendments reduce the number of bacteriological samples required from two to one per month and make a clarification to allay a concern of pool operators that the Local Health Officer might require them to sample their pools excessively often. The amendments clarify the allowed methods for cooling geothermal water before it enters a pool. They also simply state the allowance of a temperature drift in a geothermal pool under certain circumstances rather than allowing a Local Health Officer to permit the temperature drift. The amendments change allowance by the Local Health Officer of record-keeping frequency from altering the frequency to only allowing a reduction of frequency. The amendments remove criminal penalties from the rule and increase civil penalties from $5,000 to $10,000. The amendments exempt pools less than 3,000 gallons from color requirements. The amendments exempt pools that are operated with recirculation from flow-through requirements and require pools that are disinfected to meet the same bacteriological requirements in Rule R392-302.

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

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There will be no impact on the state budget as the local health departments are responsible for enforcement.
♦ LOCAL GOVERNMENTS: There will a reduction in monthly sampling costs by one half for those local health departments which provide sample service. The cost per sample is approximately $17 per sample. The total cost savings per month would be $255 (15 x $17).
♦ SMALL BUSINESSES: Alternate methods for measuring flow rates are expected to be used by most geothermal pools. Depending on how many choose this option, the savings would range from approximately $300 (1 pool) to approximately $5,100 (17 pools) total. There will a reduction in monthly sampling costs by one half for those operators who are required to pay for sampling. The cost per sample is approximately $17 per sample. The total cost savings would be $34/month (2 pools x $17).
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Alternate methods for measuring flow rates are expected to be used by most geothermal pools. Depending on how many choose this option, the savings would range from approximately $300 (1 pool) to approximately $5100 (17 pools) total. There will a reduction in monthly sampling costs by one half for those operators who are required to pay for sampling. The cost per sample is approximately $17 per sample. The total cost savings would be $34/month (2 pools x $17).

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no additional anticipated compliance costs due to the proposed amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Department personnel have worked closely with pool operators and local health departments on these rule changes. These changes provide alternatives for compliance that may lighten the fiscal impact for business. The Department believes these changes are supported by interested parties, but will carefully evaluate public comments prior to deciding whether to make any of these changes.

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

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

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: David Sundwall, MD, Executive Director

R392. Health, Epidemiology and Laboratory Services, Environmental Services.
R392-303. Public Geothermal Pools and Bathing Places.
R392-303-5. Geothermal Source Water Quality.

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

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

(2) The operator of a geothermal pool or geothermal bathing place shall collect samples of the geothermal source water and of any other water source used to fill the pool that is not approved for drinking water by Utah Division of Drinking Water. The operator shall submit the samples for analysis to a laboratory certified under R444-14. The operator shall have the analysis performed initially and every five years thereafter to determine the levels of constituents listed in Table 1. If a geothermal pool or geothermal bathing place is in existence prior to the adoption of this rule, the owner of the facility shall submit to the local health department the results of initial source water tests within six months after the adoption of the rule. The permit applicant of a newly permitted public geothermal pool or geothermal bathing place shall submit the results of the initial source water analyses to the local health department with his application for a permit. The operator shall submit five-year samples to the local health department within six months prior to the end of the five year period.

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

(a) not use the source water;

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

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

TABLE 1

Geothermal Source Water Constituents

Constituent	Maximum	Minimum
pH	8.0	7.0
Fluoride	4.0 milligrams per liter	None
Nitrate	10 milligrams per liter	None
Nitrite	1 milligrams per liter	None
Antimony	0.006 milligrams per liter	None
Arsenic	0.010 milligrams per liter	None
Barium	2 milligrams per liter	None
Beryllium	0.004 milligrams per liter	None
Cadmium	0.005 milligrams per liter	None
Chromium	0.1 milligrams per liter	None
Copper	1.3 milligrams per liter	None
Cyanide (as free cyanide)	0.2 milligrams per liter	None
Lead	0.015 milligrams per liter	None
Mercury	0.002 milligrams per liter	None
Selenium	0.05 milligrams per liter	None
Thallium	0.002 milligrams per liter	None

R392-303-8. Construction Materials.

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

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

R392-303-9. Bather Load.

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

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

R392-303-16. Circulation Systems.

(1) Geothermal pools that transport source, pool, or discharge water through pipes shall meet the requirements of R392-302-16 for piping, pipe labeling, velocity in pipes, adequate space in equipment areas, valves, and air induction systems. Geothermal pools shall meet the requirements of R392-302-16 for normal water level and vacuum cleaning systems.

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

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

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

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

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

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

(d) If the operator of a geothermal pool maintains the disinfectant levels, chloramine levels, and pH levels within the values allowed in Table 6 of R392-302 and operates a recirculation system in the pool in compliance with the requirements of R392-302-16, the pool is exempt from the flow-through rate requirements of R392-303-16(3) and shall meet the bacteriologic requirements of R392-302-27(10)(a).

(4) A geothermal pool that has pumped flow shall meet the inlet requirements of R392-302-17. Geothermal bathing places and geothermal pools that have gravity flow inlets, shall either meet the requirements of R392-302-17 or the owner or operator of the pool shall demonstrate to the local health department that the inlet system provides uniform distribution of fresh water throughout the pool. A demonstration of uniform distribution includes computer simulation or a dye test witnessed by a representative of the local health department.

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

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

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

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

R392-303-19. Pool Water Quality[~~ of Water~~].

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

(2) The local health department or pool sampler contracted by the local health department[~~, if the Local Health Officer chooses, the owner or operator of a geothermal pool or geothermal bathing place~~] shall collect bacteriological samples of the pool water at least [~~twice~~]once per month and at [~~lease~~]least [~~one~~]two weeks apart[~~ or as otherwise directed by the Local Health Officer~~]. The Local Health Officer shall choose or approve the dates and times that the samples are collected[~~,~~] based on[~~ The Local Health Officer shall choose dates and times~~] when a representative level of bacteria would likely be found. The local health department or person sampling the pool[~~the operator, as required by local health department,~~] shall submit the bacteriological samples to a laboratory approved by under R444-14 to perform E. coli or fecal coliform testing.

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

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

(3) If the E. coli or fecal coliform levels are found to be greater than the maximum level of 63 per 50 milliliters, the owner or operator shall close the pool until sample results show the level is below 63.

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

(5) The owner or operator of a geothermal pool or geothermal bathing place should maintain the pool water temperature at a maximum of 104 degrees Fahrenheit, 40 degrees Celsius. A geothermal pool or geothermal bathing place that exceeds 104 degrees Fahrenheit, 40 degrees Celsius, at the minimum required turnover rate shall have, and employ when necessary, a method of temperature reduction in the pool or bathing place that maintains the minimum flow-through rate required under

R392-303-16(3). An approved method of temperature reduction may include methods such as the introduction of cool water from a source that has been analyzed and approved according to R392-303-5(2) or approved for drinking water by the Utah Division of Drinking Water[~~approved by the Local Health Officer~~], or such as the direct cooling of the geothermal source water by a heat exchanger, or the[~~and~~] diversion of the geothermal source water to allow it to cool prior to entering the pool or impoundment. The temperature reduction method shall be capable of reducing the temperature of the pool within 2 hours of activation from the maximum anticipated temperature to below 104 degrees Fahrenheit, 40 degrees Celsius. If the temperature of the source water or cooling rate of the pool is difficult to control, a temperature drift of up to four degrees Fahrenheit, 2.2 degrees Celsius, [~~may be~~]is allowed [~~by the Local Health Officer~~]if the owner or operator has activated the temperature reduction measure. The owner or operator of a geothermal pool or geothermal bathing place shall not permit bathers to use the pool if the temperature is above 108 degrees Fahrenheit, 42.2 degrees Celsius, except the owner may allow a bather to use a soaking tub or similar fixture with a volume of 70 gallons or less and a water temperature less than or equal to 110 degrees Fahrenheit, 43.3 degrees Celsius.

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

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

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

R392-303-25. Enforcement and Penalties.

A person who violates a provision of this rule is subject to [~~a Class B misdemeanor on the first offense or a Class A misdemeanor on the second offense within one year or~~]a civil penalty of up to $[~~5~~]10,000 for each offense as provided in Section 26-23-6.

KEY: geothermal pools, geothermal natural bathing places, hot springs, geothermal spas
Date of Enactment or Last Substantive Amendment: [~~July 13,~~]2009
Authorizing, Implemented, or Interpreted Law: 26-15-2

Health, Epidemiology and Laboratory Services, Environmental Services
R392-600-6
Confirmation Sampling and Decontamination Standards

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33126
FILED: 11/02/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Department of Health was charged by S.B. 209 (2008 General Session) to conduct and review current research and adjust the methamphetamine decontamination standard accordingly. The proposed 10 fold increase in the decontamination standard (from 0.1 mcg/100 cm2 to 1.0 mcg/100 cm2) comes after serious and critical evaluation of the research conducted by the Office of Environmental Health Hazards Assessment in California, and Colorado's Department of Public Health. Each agency independently found the proposed standard to be below the calculated threshold limit where health effects begin to occur. Thus, the public's health is still protected at the higher limit. (DAR NOTE: S.B. 209 (2008) is found at Chapter 38, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: Raising the methamphetamine decontamination standard from 0.1 mg/100c m2 to 1.0 mg/100 cm2 in Subsection R392-600-6(2). The proposed standard is based on several health studies conducted in collaboration with the National Jewish Medical Center examining the health effects of methamphetamine exposure in a home.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-49-201

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings to the Utah Department of Health; rulemaking costs are absorbed by existing programs. There will be an initial cost increase to the Department of Environmental Quality to ensure corresponding rules and regulations are in accordance with changes made in Rule R392-600.
♦ LOCAL GOVERNMENTS: Local health departments are anticipated to experience an overall savings as fewer properties will be required to be on the contaminated properties list and under local authority. The change will affect anywhere from 25-38% of properties that are now

required to be decontaminated. Theoretically, workload and savings to the health departments would parallel these percentages. However, the change will likely raise questions among the general public, which will be answered by the local health departments. These anticipated increases in workload will likely be absorbed by existing programs. The cost in helping to assist with the rulemaking process has also been absorbed by existing programs.

♦ SMALL BUSINESSES: Decontamination specialists: The proposed change will likely result in a decrease in business. Although there are 26 decontamination specialists that are certified and able to decontaminate, only 3 or 4 are actively decontaminating properties. The loss of business would be spread over these active decontamination specialists. For a 2,000 sq ft home, the average cost of decontamination is approximate $5,000. (NOTE: This is a rough estimate. Actual prices depend on many variables including amount of debris in home, level of contamination, number of rooms, square footage, materials in home, location of home, and others. Actual bids for this size of home have ranged from $3,000 - $13,500.) A sample of three local health departments (Bear River Health Department, Salt Lake Valley Health Department, and Utah County Health Department) indicates that approximately 410 tests have exceeded the standard over the past 3 years. Of those tests, 155 were at 1.0 or lower, which is about 38% of the tests. If this percentage is applied statewide, 38% of properties that are required to be decontaminated at the current standard, would not be required at the higher standard. Over 3 years, for the counties sampled, this would have resulted in an estimated aggregate business loss of $775,000. Realtors: Realtors are expected to have an increase in business because there will be fewer homes that will be placed on the contaminated properties list, thus increasing the number of properties available to sell and rent. Landlords: Landlords are anticipated to experience a cost savings because 38% fewer properties will need to be decontaminated. This savings will be spread out over the more than 50,000 rental units that are currently being managed by landlords throughout Utah.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Decontamination specialists: The proposed change will likely result in a decrease in business. Although there are 26 decontamination specialists that are certified and able to decontaminate, only 3 or 4 are actively decontaminating properties. The loss of business would be spread over these active decontamination specialists. For a 2,000 sq ft home, the average cost of decontamination is approximate $5,000. (NOTE: This is a rough estimate. Actual prices depend on many variables including amount of debris in home, level of contamination, number of rooms, square footage, materials in home, location of home, and others. Actual bids for this size of home have ranged from $3,000 - $13,500.) A sample of three local health departments (Bear River Health Department, Salt Lake Valley Health Department, and Utah County Health Department) indicates that approximately 410 tests have exceeded the standard over the past 3 years. Of those tests, 155 were at 1.0 or lower, which is about 38% of the tests. If this percentage is applied statewide, 38% of properties that are required to be decontaminated at the current standard, would not be required at the higher standard. Over 3 years, for the counties sampled, this would have resulted in an estimated aggregate business loss of $775,000. Realtors: Realtors are expected to have an increase in business because there will be fewer homes that will be placed on the contaminated properties list, thus increasing the number of properties available to sell and rent. Landlords: Landlords are anticipated to experience a cost savings because 38% fewer properties will need to be decontaminated. This savings will be spread out over the more than 50,000 rental units that are currently being managed by landlords throughout Utah.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Homeowners: For a 2,000 sq ft home, the average cost of decontamination is approximate $5,000. (NOTE: This is a rough estimate. Actual prices depend on many variables including amount of debris in home, level of contamination, number of rooms, square footage, materials in home, location of home, and others. Actual bids for this size of home have ranged from $3,000 - $13,500.) A sample of three local health departments (Bear River Health Department, Salt Lake Valley Health Department, and Utah County Health Department) indicates that approximately 410 tests have exceeded the standard over the past 3 years. Of those tests, 155 were at 1.0 or lower, which is about 38% of the tests. If this percentage is applied statewide, 38% of homeowners who are required to clean their homes at the current standard, would not be required at the higher standard. Over 3 years, for the counties sampled, this would have resulted in an estimated aggregate savings of $775,000. An individual homeowner can be expected to save the costs of the decontamination process and confirmation sampling. Costs associated with any preliminary sampling will still remain. Because of the change in requirements for sampling, cost could either increase or decrease significantly. Discrete or composite sampling will be allowed. If the homeowner chooses to use discrete sampling, an additional $300 per room cost would be added to the sampling costs (4 discrete samples are required and cost an average of $100/sample). While using the 4-part composite sample might decrease initial sampling costs (only 1 test per room is required, averaging $100/sample), the test results combine all the sample locations, and cannot be divided by the number of areas sampled. Therefore, the combined test is more stringent than the discrete samples and may require additional decontamination activities. Depending on the contract used for decontamination, additional decontamination costs could be increased. However, with the simultaneous raising of the decontamination level, potentially few homes will need to have additional decontamination activities performed. The homeowner is encouraged to make an informed decision in their best interest regarding which sampling methodology should be performed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change should have a positive fiscal impact on property

owners with contaminated property and still protect the public health.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Christina McNaughton by phone at 801-538-6191, by FAX at 801-538-6564, or by Internet E-mail at cmcnaugh@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: David Sundwall, Executive Director

R392. Health, Epidemiology and Laboratory Services, Environmental Services.
R392-600. Illegal Drug Operations Decontamination Standards.
R392-600-6. Confirmation Sampling and Decontamination Standards.

(1) The decontamination specialist or owner of record shall take and test confirmation samples after decontamination to verify that concentrations are below the decontamination standards prior to the submittal of a final report. Samples are not required if a contaminated surface has been removed and replaced, unless there is evidence that the area has been re-contaminated. All decontaminated areas and materials, areas not highly suggestive of contamination, and surfaces that have not been removed shall be sampled for compliance with the standards in Table 1.

(2) If the decontamination standards are not achieved, the decontamination specialist or owner of record shall perform additional decontamination and re-sample to confirm the surface or area meets the decontamination standards specified in Table 1.

TABLE 1

COMPOUND	DECONTAMINATION STANDARD
Red Phosphorus	Removal of stained material or cleaned as specified in this rule such that there is no remaining visible residue.
Iodine Crystals	Removal of stained material or cleaned as specified in this rule such that there is no remaining visible residue.
Methamphetamine	Less than or equal to [~~0.1~~]1.0 microgram Methamphetamine per 100 square centimeters
Ephedrine	Less than or equal to 0.1 microgram Ephedrine per 100 square centimeters
Pseudoephedrine	Less than or equal to 0.1 microgram Pseudoephedrine per 100 square centimeters
VOCs in Air	Less than or equal to 1 ppm
Corrosives	Surface pH between 6 and 8
Ecstasy	Less than or equal to 0.1 microgram Ecstasy per 100 square centimeters

(3) The decontamination specialist or owner of record shall also conduct sampling and testing for all of the metals listed in Table 2 unless there is clear evidence that these metals were not used in the illegal drug operations. If Table 2 contaminants are present, the decontamination specialist or owner of record shall decontaminate the affected areas and sample until they meet the decontamination standards in Table 2.

TABLE 2

COMPOUND	DECONTAMINATION STANDARD
Lead	Less than or equal to 4.3 micrograms Lead per 100 square centimeters
Mercury	Less than or equal to 3.0 micrograms Mercury per cubic meter of air

(4) Confirmation sampling procedures.

(a) All sample locations shall be photographed.

(b) All samples shall be obtained from areas representative of the materials or surfaces being tested. Samples shall be collected from materials or surfaces using wipe samples and shall be biased toward areas where contamination is suspected or confirmed or was known to be present prior to decontamination.

(c) All samples shall be obtained, preserved, and handled and maintained under chain-of-custody protocol in accordance with industry standards for the types of samples and analytical testing to be conducted.

(d) The individual conducting the sampling shall wear a new pair of gloves to obtain each sample.

(e) All reusable sampling equipment shall be decontaminated prior to sampling.

(f) All testing equipment shall be properly equipped and calibrated for the types of compounds to be analyzed.

(g) Cotton gauze, 3" x 3" 12-ply, in sterile packages, shall be used for all wipe sampling. The cotton gauze shall be wetted with analytical grade methanol for the wipe sampling. The cotton gauze shall be blotted or wiped at least five times in two perpendicular directions within each sampling area.

(h) After sampling, each wipe sample shall be placed in a new clean sample container and capped tightly. Recommended containers are 50-mL polypropylene disposable centrifuge tubes or 40-mL VOA glass vials. Plastic bags shall not be used. The sample container shall be properly labeled with at least the site or project

identification number, date, time, and actual sample location. The sample container shall be refrigerated until delivered to an analytical laboratory.

(i) Each sample shall be analyzed for methamphetamine, ephedrine, pseudoephedrine, and ecstasy depending upon the type of illegal drug operations using NIOSH Manual of Analytical Method (NMAM) 9106 (or the proposed 9106 method if it is not yet approved) or equivalent method approved by the Utah Department of Health.

(5) Confirmation sampling from areas highly suggestive of contamination.

(a) Samples collected from areas highly suggestive of contamination shall be by grab samples that are not combined with other samples.

(b) Three 10 cm. x 10 cm. areas (100 square centimeters) shall be wipe sampled from each room of the property where illegal drug operations occurred, hazardous materials were stored and where staining or contamination are or were present. The three samples shall be obtained from a nonporous section of the floor, one wall, and the ceiling in each room or any other location where contamination is suspected.

(c) Three 10 cm. x 10 cm. areas (100 square centimeters) shall be wipe sampled from different areas of the ventilation system, unless the system serves more than one unit or structure. If the system serves more than one unit or structure, samples shall be collected from a representative distribution of the system as well as the corresponding areas that it serves until the contamination is delineated, decontaminated, and determined to be below the decontamination standards established in this rule.

(d) If there is a kitchen, three 10 cm. x 10 cm. areas (100 square centimeters) shall be wipe sampled from the surfaces most likely to be contaminated including the counter top, sink, or stove top, and from the floor in front of the stove top or any other location where contamination is suspected.

(e) If there is a bathroom, three 10 cm. x 10 cm. areas (100 square centimeters) shall be wipe sampled from the surfaces most likely to be contaminated including the counter top, sink, toilet, or the shower/bath tub and any other location where contamination is suspected.

(f) If there are any appliances, one 10 cm. x 10 cm. area (100 square centimeters) shall be wipe sampled from the exposed portion of each appliance. If multiple appliances are present, each wipe sample may be a composite of up to three 100 square centimeter areas on three separate appliances, provided that the surfaces most likely to be contaminated are tested.

(g) If there is any other enclosed space where illegal drug operations occurred, hazardous materials were stored, or where staining or contamination is present, three 10 cm. x 10 cm. areas (100 square centimeters) shall be wipe sampled from the surfaces most likely to be contaminated.

(h) Each wipe sample shall be placed in a new clean sample container and capped tightly. Recommended containers are 50-mL polypropylene disposable centrifuge tubes or 40-mL VOA glass vials. Plastic bags shall not be used.

(6) Confirmation sampling from areas not highly suggestive of contamination.

Samples shall be collected in a manner consistent with the confirmation sampling described in Section R392-600-6(5). The samples may be combined together to form one sample per room or sampling area.

(7) VOC sampling and testing procedures.

(a) A properly calibrated PID or FID capable of detecting VOCs shall be used for testing. The background concentration of VOCs shall be obtained by testing three exterior areas outside the areas highly suggestive of contamination and in areas with no known or suspected sources of VOCs. All VOC readings shall be recorded for each sample location.

(b) At least three locations in areas highly suggestive of contamination shall be tested for VOC readings. The testing equipment probe shall be held in the sample location for at least 30 seconds to obtain a reading.

(c) All accessible plumbing traps shall be tested for VOCs by holding the testing equipment probe in the plumbing pipe above the trap for at least 60 seconds.

(8) Testing procedures for corrosives.

(a) Surface pH measurements shall be made using deionized water and pH test strips with a visual indication for a pH between 6 and 8. The pH reading shall be recorded for each sample location.

(b) For horizontal surfaces, deionized water shall be applied to the surface and allowed to stand for at least three minutes. The pH test strip shall then be placed in the water for a minimum of 30 seconds and read.

(c) For vertical surfaces, a cotton gauze, 3" x 3" 12-ply, in sterile packages, shall be wetted with deionized water and wiped over a 10 cm. x 10 cm. area at least five times in two perpendicular directions. The cotton gauze shall then be placed into a clean sample container and covered with clean deionized water. The cotton gauze and water shall stand in the container for at least three minutes prior to testing. The pH test strip shall then be placed in the water for a minimum of 30 seconds and read.

(d) pH testing shall be conducted on at least three locations in each room within the areas highly suggestive of contamination.

(9) Lead Sampling and Testing Procedures.

(a) Unless there is clear evidence that lead was not used in the manufacturing of methamphetamine, or ecstasy at the illegal drug operations, lead sampling shall be conducted as follows:

(i) Cotton gauze, 3" x 3" 12-ply, in sterile packages shall be used for wipe sampling. The cotton gauze shall be wetted with analytical grade 3 per cent nanograde nitric acid for the wipe sampling. The cotton gauze shall be blotted or wiped at least five times in two perpendicular directions within each sampling area.

(ii) Three 10 cm. x 10 cm. areas (100 square centimeters) shall be sampled in each room within the areas highly suggestive of contamination; and

(b) After sampling, each wipe sample shall be placed in a new clean sample container and capped tightly. The sample container shall be properly labeled with at least the site or project identification number, date, time, and actual sample location. The sample container shall be delivered to an analytical laboratory that uses EPA Method 6010B or an equivalent method approved by the Utah Department of Health.

(c) The sample shall be analyzed for lead using EPA Method 6010B or equivalent.

(10) Mercury Sampling and Testing Procedures.

(a) A properly calibrated mercury vapor analyzer shall be used for evaluating the decontaminated areas for the presence of mercury. All mercury readings shall be recorded for each sample location.

(b) At least three locations in each room within the areas highly suggestive of contamination shall be tested for mercury vapor readings. The testing equipment probe shall be held in the sample location for at least 30 seconds to obtain a reading.

(c) All accessible plumbing traps shall be tested for mercury by holding the testing equipment probe in the plumbing pipe above the trap for at least 60 seconds.

(11) Septic tank sampling and testing procedures.

(a) All sampling and testing shall be performed in accordance with current EPA sampling and testing protocol.

(b) The liquid in the septic tank shall be sampled with a new clean bailer or similar equipment.

(c) The liquid shall be decanted or poured with minimal turbulence into three new VOA vials properly prepared by the analytical laboratory.

(d) The VOA vials shall be filled so that there are no air bubbles in the sealed container. If air bubbles are present, the vial must be emptied and refilled.

(i) The sample vials shall be properly labeled with at least the date, time, and sample location.

(ii) The sample vials shall be refrigerated until delivered to the analytical laboratory.

(iii) The sample shall be analyzed using EPA Method 8260 or equivalent.

(12) Confirmation sampling by Local Health Departments.

The local health department may also conduct confirmation sampling after decontamination is completed and after the final report is submitted to verify that the property has been decontaminated to the standards outlined in this rule.

KEY: illegal drug operation, methamphetamine decontamination
Date of Enactment or Last Substantive Amendment: [~~May 2, 2005~~]2009
Authorizing, and Implemented or Interpreted Law: 19-9-906

Health, Community and Family Health Services, Children with Special Health Care Needs

R398-2-7

Penalty for Violation of Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33134
FILED: 11/02/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to remove an obsolete reference to criminal penalties for violating a rule that is no longer supported by statutory delegation of this authority by the Legislature (see H.B. 32, 2009 General Sessions, Utah State Legislature) (DAR NOTE: H.B. 32 (2009) is found at Chapter 347, Laws of Utah 2009, and was effective 05/12/2009.).

SUMMARY OF THE RULE OR CHANGE: The reference to criminal penalties for violating this rule is removed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 8a

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: It is possible that increased focus on use of civil money penalties could have a positive impact on state and local budgets, but any impact is expected to be minimal.
♦ LOCAL GOVERNMENTS: It is possible that increased focus on use of civil money penalties could have a positive impact on state and local budgets, but any impact is expected to be minimal.
♦ SMALL BUSINESSES: It is possible that increased focus on use of civil money penalties could have a minimal impact on small and large business. No significant change to current enforcement practices is predicted.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: It is possible that increased focus on use of civil money penalties could have a minimal impact on small and large business. No significant change to current enforcement practices is predicted.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is possible that increased focus on use of civil money penalties could have a minimal impact on small and large business. No significant change to current enforcement practices is predicted.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Removing obsolete criminal penalties will impose no new fiscal impact.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
COMMUNITY AND FAMILY HEALTH SERVICES,
CHILDREN WITH SPECIAL HEALTH CARE NEEDS
44 N MARIO CAPECCHI DR
SALT LAKE CITY, UT 84113
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Richard Harward by phone at 801-584-8529, by FAX at 801-584-8492, or by Internet E-mail at rharward@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 03/15/2010

AUTHORIZED BY: David Sundwall, MD, Executive Director

R398. Health, Community and Family Health Services, Children with Special Health Care Needs.
R398-2. Newborn Hearing Screening.
R398-2-7. Penalty for Violation of Rule.

Any person who violates any provision of this rule may be assessed a penalty [~~not to exceed the sum of $5,000 or be punished for violation of a class B misdemeanor for the first violation and for any subsequent similar violation within two years for violation of a class A misdemeanor~~]as provided in Section 26-23-6.

KEY: newborn hearing screening
Date of Enactment or Last Substantive Amendment: [~~September 1, 2001~~]2009
Notice of Continuation: July 2, 2008
Authorizing, and Implemented or Interpreted Law: 26-10-6

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-1-5
Incorporations by Reference

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33127
FILED: 11/02/2009

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. 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: Subsection R414-1-5(2) is changed to update the incorporation of the State Plan by reference effective 01/01/2010. It also incorporates State Plan Amendments that become effective no later than 01/01/2010. The change further incorporates by reference the Medical Supplies Manual and List and the hospital services provider manual, effective 01/01/2010.

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

MATERIALS INCORPORATED BY REFERENCES:

- Updates Utah Medicaid State Plan, published by Division of Medicaid and Health Financing, 01/01/2010
- Updates Utah Medicaid Provider Manual, Medical Supplies Manual and List, published by Division of Medicaid and Health Financing, 01/01/2010
- Updates Hospital Services Provider Manual, published by Division of Medicaid and Health Financing, 01/01/2010

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 persons other than small businesses, businesses, or local government 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 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: David Sundwall, MD, 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 [~~October~~]January 1, 20[~~09~~]10. It also incorporates by reference State Plan Amendments that become effective no later than [~~October~~]January 1, 20[~~09~~]10.

(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, [~~October~~]January 1, 20[~~09~~]10, as applied in Rule R414-70.

(3) The Department incorporates by reference the Hospital Services Provider Manual, with its attachments, effective [~~October~~]January 1, 20[~~09~~]10.

KEY: Medicaid
Date of Enactment or Last Substantive Amendment: [~~October 1~~], 2009
Notice of Continuation: April 16, 2007
Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-[~~1~~]3

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

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33130
FILED: 11/02/2009

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 01/01/2010.

SUMMARY OF THE RULE OR CHANGE: This change incorporates by reference the Speech-Language Services Provider Manual, effective 01/01/2010.

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

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 persons other than small businesses, businesses, or local government 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 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: David Sundwall, 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 [~~Pathology~~]Services Provider Manual, effective [~~October~~]January 1, 20[~~09~~]10, which is incorporated by reference.

(3) The Speech-Language [~~Pathology~~]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: [~~October 1~~], 2009
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.: 33129
FILED: 11/02/2009

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 01/01/2010.

SUMMARY OF THE RULE OR CHANGE: This change incorporates by reference the Audiology Services Provider Manual, effective 01/01/2010.

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

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 other persons and 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 persons other than small businesses, businesses, or local government 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 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: David Sundwall, 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 [~~October~~]January 1, 20[~~09~~]10, 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: [~~October 1~~], 2009
Notice of Continuation: November 22, 2005
Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-305
Resources

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33132
FILED: 11/02/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to implement a provision of the Social Security Act that increases the resource limit for Medicare cost sharing programs to include Qualified Medicare Beneficiaries, Specified Low-Income Medicare Beneficiaries, and Qualifying Individuals.

SUMMARY OF THE RULE OR CHANGE: This change increases the resource limit for Medicare cost sharing programs to match the limit used for the Medicare Part D Low-Income Drug Subsidy program. The new limit is three times the limit used for the Supplemental Security Income program, plus annual increases due to increases in the Consumer Price Index.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 U.S.C. Sec. 1396d(p)(1)(C) and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: This change results in an estimated annual cost of $41,579 to the General Fund and $145,909 in federal dollars due to the increased number of individuals eligible for Medicare cost sharing programs.
♦ LOCAL GOVERNMENTS: This change does not impact local governments because they do not fund or provide Medicare and Medicaid services.
♦ SMALL BUSINESSES: This rule change will allow more Utah residents to qualify for Medicaid and providers that serve them may see additional revenue.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Individuals who become eligible for Medicare cost sharing programs under this change could save approximately $187,488 annually. In addition, there is an increase in annual revenue for some Medicaid providers, but there is no way to know how many additional services will result from this change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change imposes no additional application requirements for either Medicaid recipients or providers. No compliance costs are expected.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change is required by federal law and will increase the cost of the Medicaid program to the state. No impact on business is expected, other than the possibility of slightly higher revenue.

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 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: David Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-305. Resources.
R414-305-8. [~~QMB, SLMB, and QI~~]Qualified Medicare Beneficiary, Specified Low-Income Medicare Beneficiary, and Qualifying Individual Resource Provisions.

(1) To determine eligibility for Qualified Medicare Beneficiaries, Specified Low-Income Medicare Beneficiaries, and Qualifying Individuals, [~~T~~]the Department [~~adopts~~]applies the resource limit defined in [~~Subsection 1905~~]42 U.S.C. Sec.1396d(p)(1)(C).[~~of the Compilation of the Social Security Laws, 1999 ed., which is incorporated by reference.~~

~~(2) The resource limit is the same for all medically needy individuals.~~

~~(3) The QMB, SLMB, and QI resource limit is $4,000 for an individual and $6,000 for a couple.~~]

(2) The Department determines countable resources in accordance with the provisions of Section R414-305-1.

KEY: Medicaid, resources
Date of Enactment or Last Substantive Amendment: [~~October 22~~], 2009
Notice of Continuation: January 31, 2008
Authorizing, and Implemented or Interpreted Law: 26-18

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-308-3
Application and Signature

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33133
FILED: 11/02/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to comply with a provision in the Social Security Act. Utah will now accept data transmitted from Social Security from low-income subsidy applicants and avoid having the applicant fill out a form twice.

SUMMARY OF THE RULE OR CHANGE: This change requires the state to accept data transmitted from Social Security from low-income subsidy applicants. It also defines the application date for such applications, the application processing period, and how the agency will treat a request for Medicaid from the applicant.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 U.S.C. Sec. 1396u-5(a)(4) and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: This change results in an annual cost to the General Fund of approximately $263,332 and $924,092 in federal dollars.
♦ LOCAL GOVERNMENTS: This change does not impact local governments because they do not fund or process applications for Medicare and Medicaid cost sharing programs.
♦ SMALL BUSINESSES: Small businesses could see an increase in revenue based on the fact that more clients will have funding for their needed medical services. This increase in funding will allow them to spend their resources in other ways that could benefit businesses and the economy in general. Nevertheless, there is insufficient data to quantify an exact amount of business revenue.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Individuals who become eligible for Medicare cost sharing programs under this change could save approximately $1,187,424 annually. In addition, there is an increase in annual revenue for some Medicaid providers, but there is no way to know how many additional services will result from this change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are only savings and no compliance costs because an individual who is found eligible for a Medicare cost sharing program will receive a benefit in the form of payment on his Medicare Part B premium. Furthermore, there is only an increase in annual revenue for a single Medicaid provider.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change is required by federal law and will increase the cost of the Medicaid program to the state. No impact on

business is expected, other than the possibility of slightly higher revenue.

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 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: David Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-308. Application, Eligibility Determinations and Improper Medical Assistance.
R414-308-3. Application and Signature.

(1) An individual may apply for medical assistance by completing and signing any Department-approved application form for Medicaid, Qualified Medicare Beneficiaries, Specified Low-Income Medicare Beneficiaries, or Qualified Individuals assistance and delivering it to the Medicaid eligibility agency. If available, an individual may complete an on-line application for medical assistance and send it electronically to the Medicaid eligibility agency.

(a) If an applicant cannot write, the applicant must make his mark on the application form and have at least one witness to the signature.

(b) For on-line applications, the individual must either send the Medicaid eligibility agency an original signature on a printed signature page, or if available on-line, submit an electronic signature that conforms with state law for electronic signatures.

(c) A representative may apply on behalf of an individual. A representative may be a legal guardian, a person holding a power of attorney, a representative payee or other responsible person acting on behalf of the individual. In this case, the Medicaid eligibility agency may send notices, requests and forms to both the individual and the individual's representative, or to just the individual's representative.

(d) If the Division of Child and Family Services (DCFS) has custody of a child and the child is placed in foster care, DCFS completes the application. DCFS determines eligibility for the child pursuant to a written agreement with the Department. DCFS also determines eligibility for children placed under a subsidized adoption agreement.

(e) An authorized representative may apply for the individual if unusual circumstances or death prevent an individual from applying on his own. The individual must sign the application form if possible. If the individual cannot sign the application, the representative must sign the application. The Medicaid eligibility agency may assign someone to act as the authorized representative when the individual requires help to apply and is unable to appoint a representative.

(2) The Medicaid eligibility agency will process low-income subsidy application data transmitted from the Social Security Administration in accordance with 42 U.S.C. Sec. 1935(a)(4) as an application for Medicare cost sharing programs. The agency will take appropriate steps to gather the required information and verifications from the applicant to determine the applicant's eligibility.

(a) Data transmitted from social security is not an application for Medicaid.

(b) Individuals who want to apply for Medicaid when contacted for information to process the application for Medicare cost-sharing programs must complete and sign a Medicaid application form. The date of application for Medicaid is the date the Medicaid eligibility agency receives the application.

([~~2~~]3) The Medicaid eligibility agency determines the date of application as follows:

(a) The date of application is the date that the Medicaid eligibility agency receives a completed application by the close of normal business hours on a week day that is not a Saturday, Sunday or state holiday. If an application is received after the normal close of business hours on a weekday that is not a Saturday, Sunday or state holiday, the date of application is the next weekday that is not a Saturday, Sunday or state holiday.

(b) The Medicaid eligibility agency determines the application date for applications delivered to an outreach location as follows:

(i) If the application is delivered at a time when the outreach staff is working at that location, the date of application is the date the outreach staff receives the application.

(ii) If the application is delivered on a non-business day or at a time when the outreach office is closed, the date of application is the last business day that a staff person from the state Medicaid eligibility agency was available to receive or pick up applications from that location.

(c) When the state receives application data transmitted from social security pursuant to the requirements of 42 U.S.C. Sec. 1396u-5(a)(4), the Medicaid eligibility agency uses the date the individual submitted the low-income subsidy application to the Social Security Administration as the application date for Medicare cost sharing programs. The application processing period for the transmitted data begins on the date the Medicaid eligibility agency receives the transmitted data from social security. The transmitted data meets the signature requirements for applications for Medicare cost sharing programs.

([e]d) An applicant must provide the verifications needed to process an application and determine eligibility no later than the close of business on the last day of the application period. If the last day of the application processing period falls on a day of the week when the Medicaid eligibility office is closed, then the

applicant has until the close of business on the next day that the Medicaid eligibility agency is open immediately following the last day of the application processing period. An applicant may request more time to provide verifications. The request must be made by the last day of the application processing period.

([~~3~~]4) The Medicaid eligibility agency accepts a signed application sent via facsimile as a valid application and does not require it to be signed again.

([~~4~~]5) If an applicant submits an unsigned, or incomplete application form to the Medicaid eligibility agency, the Medicaid eligibility agency will notify the applicant that he or she must sign and complete the application no later than the last day of the application processing period. The Medicaid eligibility agency will send a signature page to the applicant and give the applicant at least [~~ten~~]10 days to sign and return the signature page. When the application is incomplete, the Medicaid eligibility agency will notify the applicant of the need to complete the application through an interview process, by mail, or by coming to an office to complete the form.

(a) If the Medicaid eligibility agency receives a signature page signed by the applicant, and the applicant completes the application within the application processing period, the date of application will be the date the Medicaid eligibility agency received the application form that was not complete or signed.

(b) If the Medicaid eligibility agency does not receive a signed signature page, and the applicant does not complete the application form within the application processing period, the application is void and the Medicaid eligibility agency will send a denial notice to the applicant. The previous application date will not be protected.

(c) If the Medicaid eligibility agency receives a signed signature page and the completed application after the application processing period but during the 30 calendar days immediately after the denial notice is mailed, the Medicaid eligibility agency will contact the applicant to ask if the applicant wants to reapply for medical assistance. If the applicant wants to reapply, the Medicaid eligibility agency may use the previous application form it received, but the application date will be the date the Medicaid eligibility agency receives both the signed signature page and completed application form according to the same provisions in Subsection R414-308-3(2).

(d) If the Medicaid eligibility agency receives a signed signature page and the completed application more than 30 calendar days after the denial notice is sent, the applicant will need to reapply by completing and submitting a new application form. The original application date is not retained. The new application date will be the date the Medicaid eligibility agency receives a new application.

KEY: public assistance programs, application, eligibility, Medicaid
Date of Enactment or Last Substantive Amendment: [~~September 15~~], 2009
Notice of Continuation: January 31, 2008
Authorizing, and Implemented or Interpreted Law: 26-18

Health, Health Systems Improvement, Emergency Medical Services
R426-14-301
Application, Department Review, and Issuance

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33125
FILED: 11/02/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: At the request of local governments, licenses issued through request for proposal processes may be modified during the four-year renewal period.

SUMMARY OF THE RULE OR CHANGE: Subsection R426-14-301(6) is added to permit local governments to request changes to licenses issued through the request for proposal process to be modified during the four-year renewal period.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 8a

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Fees for re-licensing are assessed by the Department to recover expenditures for staff time and materials used during the application and review process. Therefore, no impact on the state budget is anticipated.
♦ LOCAL GOVERNMENTS: If a local government chooses to request an action permitted by this rule change there are voluntary fees and costs. The fees and costs are at the discretion of the local government desiring to make changes allowed under the amendment to the rule.
♦ SMALL BUSINESSES: Any change in the license process allowed under the rule amendment will require the consent of all affected businesses and other parties involved. Resulting changes in business practices will be at the discretion of the businesses participating in providing ambulance services.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Any change in the license process allowed under the rule amendment will require the consent of all affected businesses and other parties involved. Resulting changes in business practices will be at the discretion of the businesses participating in providing ambulance services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No new compliance activities are required by this rule. Therefore, no compliance costs are anticipated.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change gives added flexibility to regulated business. Use of the process may only occur when private, local and state consensus exists that this process should proceed.

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT,
EMERGENCY MEDICAL SERVICES
3760 S HIGHLAND DR
SALT LAKE CITY, UT 84106
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/23/2009

AUTHORIZED BY: David Sundwall, Executive Director

R426. Health, Health Systems Improvement, Emergency Medical Services.
R426-14. Ambulance Service and Paramedic Service Licensure.
R426-14-301. Application, Department Review, and Issuance.

(1) An applicant desiring to be licensed or to renew its license shall submit the applicable fees and an application on Department-approved forms to the Department. As part of the application, the applicant shall submit documentation that it meets the requirements listed in R426-14-300 and the following:

(a) a detailed description and detailed map of the exclusive geographical area that it will serve;

(i) if the requested geographical service area is for less than all ground ambulance or paramedic services, the applicant shall include a written description and detailed map showing how the areas not included will receive ground ambulance or paramedic services;

(ii) if an applicant is responding to a public bid as described in 26-8a-405.2 the applicant shall include detailed maps and descriptions of all geographical areas served in accordance with 26-8a-405.2 (2).

(b) for an applicant for a new service, documentation showing that the applicant meets all local zoning and business licensing standards within the exclusive geographical service area that it will serve;

(c) a written description of how the applicant will communicate with dispatch centers, law enforcement agencies, on-line medical control, and patient transport destinations;

(d) for renewal applications, a written assessment of field performance from the applicant's off-line medical director; and

(e) other information that the Department determines necessary for the processing of the application and the oversight of the licensed entity.

(2) A ground ambulance or paramedic service holding a license under 26-8a-404, including any political subdivision that is part of a special district or unified fire authority holding such a license, may respond to a request for proposal if it complies with 26-8a-405(2).

(3) If, upon Department review, the application is complete and meets all the requirements, the Department shall:

(a) for a new license application, issue a notice of approved application as required by 26-8a-405 and 406;

(b) issue a renewal license to an applicant in accordance with 26-8a-413(1) and (2);

(c) issue a license to an applicant selected by a political subdivision in accordance with 26-8a-405.1(3);

(d) issue a four-year renewal license to a license selected by a political subdivision if the political subdivision certifies to the Department that the licensee has met all of the specifications of the original bid and requirements of 26-8a-413(1) through (3); or

(e) issue a second four-year renewal license to a licensee selected by a political subdivision if:

(i) the political subdivision certifies to the Department that the licensee has met all of the specifications of the original bid and requirements of 26-8a-413(1) through (3); and

(ii) if the Department or the political subdivision has not received, prior to the expiration date, written notice from an approved applicant desiring to submit a bid for ambulance or paramedic services.

(4) Award of a new license or a renewal license is contingent upon the applicant's demonstration of compliance with all applicable statutes and rules and a successful Department quality assurance review.

(5) A license may be issued for up to a four-year period. The Department may alter the length of the license to standardize renewal cycles.

(6) Upon the request of the political subdivision and the agreement of all interested parties and the Department that the public interest would be served, the renewal license may be issued for a period of less than four years or a new request for the proposal process may be commenced at any time.

KEY: emergency medical services
Date of Enactment or Last Substantive Amendment: [~~January 1, 2004~~]2009
Notice of Continuation: July 28, 2009
Authorizing, and Implemented or Interpreted Law: 26-8a

Health, Health Systems Improvement, Child Care Licensing
R430-6-4
Criminal Background Screening

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 33083
FILED: 10/22/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to correct an error in the background screening rule for child care providers.

SUMMARY OF THE RULE OR CHANGE: This change clarifies that not all DUI convictions result in a person being ineligible to provide licensed child care. Only a Misdemeanor A conviction, which means a conviction which involved transporting a minor while driving under the influence, or inflicting bodily injury to another while driving under the influence, would make a person ineligible to provide licensed child care. This was the recommendation of the Child Care Licensing Advisory Committee when this rule was revised.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Because this change does not change the background screening process for child care providers, there is no anticipated costs or savings to the state budget.
♦ LOCAL GOVERNMENTS: Some local governments operate child care programs. This change may benefit some of these programs who would now be able to hire individuals with less serious criminal convictions for driving under the influence.
♦ SMALL BUSINESSES: Almost all child care programs are small businesses. This change may benefit some programs who would now be able to hire individuals with less serious criminal convictions for driving under the influence.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: For any affected child care program that is not a small business, it is possible that this change may benefit some programs who would now be able to hire individuals with less serious criminal convictions for driving under the influence.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no new compliance activities anticipated as a result of this rule change, therefore no new compliance costs are expected.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact is expected to be negligible or slightly positive for regulated businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
HEALTH SYSTEMS IMPROVEMENT,
CHILD CARE LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Teresa Whiting by phone at 801-538-6320, by FAX at 801-538-6325, or by Internet E-mail at twhiting@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2010
AUTHORIZED BY: David Sundwall, Executive Director

R430. Health, Health Systems Improvement, Child Care Licensing.
R430-6. Background Screening.
R430-6-4. Criminal Background Screening.

(1) Regardless of any exception under R430-6-4(4), if an in-state criminal background screening indicates that a covered individual age 18 or older has a background finding, the Department may require that individual to submit a fingerprint card and fee from which the Department may conduct a national criminal background screening on that individual.

(2) Except for the offenses listed under Subsection (3), if a covered individual has a background finding, that individual may not be involved with child care. If such a covered individual resides in a home where child care is provided, the Department shall revoke an existing license or certificate or refuse to issue a new license or certificate.

(3) A background finding for any of the following offenses does not prohibit a covered individual from being involved with child care:

(a) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 32A, Alcoholic Beverage Control Act, except for 32A-12-203, Unlawful sale or furnishing to minors;

(b) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 41, Chapter 6a, Traffic Code except for an offense under section 41-6a-502, Driving under the influence of alcohol, drugs, or a combination of both or with specified or unsafe blood alcohol concentration, [~~where the penalty falls under~~]that is punishable as a Class A misdemeanor under subsection 41-6a-503(1)(b);

(c) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 58, Chapter 37, Utah Controlled Substances Act;

(d) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(e) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 58, Chapter 37b, Imitation Controlled Substances Act;

(f) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 76, Chapter 4, Inchoate Offenses, except for:

(i) 76-4-401, Enticing a Minor;

(g) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 76, Chapter 6, Offenses Against Property;

(h) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 76, Chapter 6a, Pyramid Scheme Act;

(i) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 76, Chapter 7, Subsection 103, Adultery, and 104, Fornication;

(j) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 76, Chapter 8, Offenses Against the Administration of Government;

(k) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 76, Chapter 9, Offenses Against Public Order and Decency, except for:

(i) 76-9-301, Cruelty to Animals;

(ii) 76-9-301.1, Dog Fighting;

(iii) 76-9-301.8, Bestiality;

(iv) 76-9-702, Lewdness;

(v) 76-9-702.5, Lewdness Involving Child; and

(vi) 76-9-702.7, Voyeurism; and

(l) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 76, Chapter 10, Offenses Against Public Health, Welfare, Safety and Morals, Utah Criminal Code, except for:

(i) 76-10-509.5, Providing Certain Weapons to a Minor;

(ii) 76-10-509.6, Parent or guardian providing firearm to violent minor;

(iii) 76-10-509.7, Parent or Guardian Knowing of a Minor's Possession of a Dangerous Weapon;

(iv) 76-10-1201 to 1229.5, Pornographic Material or Performance;

(v) 76-10-1301 to 1314, Prostitution; and

(vi) 76-10-2301, Contributing to the Delinquency of a Minor.

(4) A covered individual with a Class A misdemeanor background finding may be involved with child care if either of the following conditions is met:

(a) if the Class A misdemeanor background finding is for any of the excluded misdemeanor offenses in Subsection (3), and:

(i) ten or more years have passed since the Class A misdemeanor offense; and

(ii) there is no other background finding for the individual in the past ten years; or

(b) if the Class A misdemeanor background finding is for any of the excluded misdemeanor offenses in Subsection (3) and five or more years have passed, but ten years have not passed since the Class A misdemeanor offense, and there is no other background finding since the Class A misdemeanor offense, then the individual may be involved with child care as an employee of an existing licensed or certified child care program for up to six months if:

(i) the individual provides documentation for an active petition for expungement of the disqualifying offense within 30 days of the notice of the disqualifying background finding; and

(ii) the licensee or certificate holder ensures that another employee who has passed the background screening is always present in the same room as the individual, and ensures that the individual has no unsupervised contact with any child in care.

(5) If the court denies a petition for expungement from an individual who has petitioned for expungement and continues to be involved with child care as an employee under Subsection (4)(b), that individual may no longer be employed in an existing licensed or certified child care program, even if six months have not passed since the notice of the disqualifying background finding.

(6) The Department may rely on the criminal background screening as conclusive evidence of the arrest warrant, arrest, charge, or conviction, and the Department may revoke or deny a license, certificate, or employment based on that evidence.

(7) If a covered individual is denied a license, certificate or employment based upon the criminal background screening and the covered individual disagrees with the information provided by the Department of Public Safety, the covered individual may challenge the information as provided in Utah Code, Sections 77-18-10 through 77-18-14 and 77-18a-1.

(8) If the Department takes an action adverse to any covered individual based upon the criminal background screening, the Department shall send a written decision to the licensee or certificate holder and the covered individual explaining the action and the right of appeal.

(9) All licensees, certificate holders, and covered individuals must report to the Department any felony or misdemeanor arrest, charge, or conviction of a covered individual within 48 hours of becoming aware of the arrest warrant, arrest, charge, or conviction. Failure to notify the Department within 48 hours may result in disciplinary action, including revocation of the license or certificate.

KEY: child care facilities
Date of Enactment or Last Substantive Amendment: [~~February 16~~], 2009
Notice of Continuation: August 13, 2007
Authorizing, and Implemented or Interpreted Law: 26-39

Health, Health Systems Improvement, Child Care Licensing
R430-8
Exemptions From Child Care Licensing

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33084
FILED: 10/22/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify that a license is not required if a person only provides child care on one or two days per week, and that a voluntary license is available to most programs who are exempt under this rule.

SUMMARY OF THE RULE OR CHANGE: This change clarifies that a license is not required if a person only provides child care on one or two days per week, and that a voluntary license is available to most programs who are exempt under this rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Because this change does not require any currently unlicensed programs to become licensed, there is no anticipated costs or savings to the state budget. There are one to ten additional programs that may choose to voluntarily license with the clarification that a license is available, but this many additional programs could easily be absorbed into current licensor caseloads.
♦ LOCAL GOVERNMENTS: There are no programs operated by local governments that the Department is aware of that would be affected by this rule change, there is no anticipated costs or savings to local governments.
♦ SMALL BUSINESSES: Almost all child care programs are small businesses. The Department is not aware of any facilities who will now be required to license as a result of this rule change. Those who choose to voluntarily license with the clarification that a voluntary license is available will have the increased cost of a yearly licensing fee.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: For any affected child care program that is not a small business, those who choose to voluntarily license with the clarification that a voluntary license is available will have the increased cost of a yearly licensing fee.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A program that chooses to voluntarily become licensed as a result of this change would incur and annual license fee of $25, plus $1.50 for each child slot in their program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Any fiscal impact will be voluntarily incurred when an exempt business chooses to be licensed.

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT,
CHILD CARE LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Teresa Whiting by phone at 801-538-6320, by FAX at 801-538-6325, or by Internet E-mail at twhiting@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2010

AUTHORIZED BY: David Sundwall, Executive Director

R430. Health, Health Systems Improvement, Child Care Licensing.
R430-8. Exemptions From Child Care Licensing.
R430-8-4. Care Not in Lieu of Parental Care.

(1) [~~The Department does not issue licenses~~]A license is not required for care that meets all of the following:

(a) the parent is physically present in the building where the care is provided, at all times while the care is being provided, and is near enough to reach his or her child to provide care within five minutes if needed;

(b) the duration of the care is less than four hours for any individual child in any one day;

(c) the program does not diaper children; and

(d) the program does not prepare or serve meals to children.

R430-8-10. Care for Less Than Three Days a Week.

(1) A license or certificate is not required if the provider offers care on no more than two days during any calendar week. A calendar week means from Sunday through Saturday.

R430-8-11. Voluntary Licensure.

(1) A child care provider defined as exempt under this rule may voluntarily receive a license and agree to be subject to all of the terms and conditions of the license, except for the following:

(a) relative care under section R430-8-7 above: and

(b) care provided in the home of the provider on a sporadic basis only under subsection R430-8-8(2) above.

KEY: child care facilities
Date of Enactment or Last Substantive Amendment: [~~November 1, 2008~~]2009
Notice of Continuation: May 19, 2009
Authorizing, and Implemented or Interpreted Law: 26-39

Health, Health Systems Improvement, Child Care Licensing
R430-70

Out of School Time Child Care Programs

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33082
FILED: 10/22/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to respond to public comments received on this rule. This rule clarifies requirements for out of school time child care programs.

SUMMARY OF THE RULE OR CHANGE: This change reduces the number of sinks and toilets required in out of school time child care programs. It also clarifies a contradiction in the existing rule for training of new providers. It also adds a requirement that programs have a policy in place for children's safety when using the Internet, and clarifies the requirement to clean and sanitize child sleeping equipment.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Because this change does not change the licensing process for out of school time child care providers, there is no anticipated costs or savings to the state budget.
♦ LOCAL GOVERNMENTS: Some county recreation programs operate school age child care programs. It is possible these programs may see an increase in revenue because the requirements for fewer sinks and toilets may allow them to serve more children.
♦ SMALL BUSINESSES: Almost all child care programs are small businesses. It is possible these programs may see an increase in revenue because the requirements for fewer sinks and toilets may allow them to serve more children.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: For any affected child care program that is not a small business, it is possible these programs may see an increase in revenue because the requirements for fewer sinks and toilets may allow them to serve more children.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no new compliance activities anticipated as a result of this rule change, therefore no new compliance costs are expected.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Expected fiscal impact is positive with the requirement to install fewer fixtures.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
HEALTH SYSTEMS IMPROVEMENT,
CHILD CARE LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
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THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2010

AUTHORIZED BY: David Sundwall, Executive Director

R430. Health, Health Systems Improvement, Bureau of Child Care Licensing.
R430-70. Out of School Time Child Care Programs.
R430-70-3. License Required.

(1) A person or persons must be licensed to provide child care if:

(a) they provide care in the absence of the child's parent;

(b) they provide care for five or more children;

(c) they provide care in a place other than the provider's home or the child's home;

(d) the program is open to children on an ongoing basis, on three or more days a week and for [~~four or more weeks~~]30 or more days in a calendar year; and

(e) they provide care for direct or indirect compensation.

(2) A person or persons may be licensed as an out of school time program under this rule if:

(a) they either provide care for two or more hours per day on days when school is in session for the child in care, and four or more hours per day on days when school is not in session for the child in care; or they provide care for four or more hours per day on days when school is not in session; and

(c) all of the children who attend the program are at least five years of age.

R430-70-4. Facility.

(1) The licensee shall ensure that any building or playground structure constructed prior to 1978 which has peeling, flaking, chalking, or failing paint is tested for lead based paint. If lead based paint is found, the licensee shall contact the local health department and follow all required procedures for the removal of the lead based paint.

(2) There shall be [~~one working toilet and one working sink for every fifteen children in the program~~]at least two working toilets and two working sinks accessible to the children in care.

(3) If there are more than 50 children in attendance, there shall be one additional working sink and one additional working toilet for each additional group of 1 to 25 children.

[~~(3)~~](4) Children shall have privacy when using the bathroom.

[~~(4)~~](5) For buildings [~~constructed after 1 July 1997~~]newly licensed under this rule after 30 June 2010 there shall be a working hand washing sink in each classroom.

(6) In gymnasiums, and in classrooms in buildings licensed before 30 June 2010, hand sanitizer must be available to children in care if there is not a handwashing sink in the room.

[~~(5)~~](7) All rooms and occupied areas in the building shall be ventilated by mechanical ventilation or by windows that open and have screens.

[~~(6)~~](8) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

[~~(7)~~](9) The provider shall maintain adequate light intensity for the safety of children and the type of activity being conducted by keeping lighting equipment in good working condition.

[~~(8)~~](10) Windows, glass doors, and glass mirrors within 36 inches from the floor or ground shall be made of safety glass, or have a protective guard.

[~~(9)~~](11) There shall be at least 35 square feet of indoor space for each child, including the licensee's and employees' children who are not counted in the caregiver to child ratios.

[~~(10)~~](12) Indoor space per child may include floor space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used:

(a) by children;

(b) for the care of children; or

(c) to store classroom materials.

[~~(11)~~](13) Bathrooms, closets, staff lockers, hallways, corridors, lobbies, kitchens, or staff offices are not included when calculating indoor space for children's use.

R430-70-6. Outdoor Environment.

. . . . . .

(9) All outdoor play equipment and areas shall comply with the following safety standards by the dates specified in Subsection (10) below.

(a) All stationary play equipment used by children shall meet the following requirements for use zones:

(i) If the height of a designated play surface or climbing bar on a piece of equipment, excluding swings, is greater than 20 inches, it shall have use zones that meet the following criteria:

(A) The use zone shall extend a minimum of 6 feet in all directions from the perimeter of each piece of equipment.

(B) The use zones of two pieces of equipment that are positioned adjacent to one another may overlap if the designated play surfaces of each structure are no more than 30 inches above the protective surfacing underneath the equipment. In such cases, there shall be a minimum of 6 feet between the adjacent pieces of equipment.

(C) There shall be a minimum use zone of 9 feet between adjacent pieces of equipment if the designated play surface of one or both pieces of equipment is more than 30 inches above the protective surfacing underneath the equipment.

(ii) The use zone in the front and rear of a single-axis swing shall extend a minimum distance of twice the height of the pivot point of the swing, and may not overlap the use zone of any other piece of equipment.

(iii) The use zone for the sides of a single-axis swing shall extend a minimum of 6 feet from the perimeter of the structure, and may overlap the use zone of a separate piece of equipment.

(iv) The use zone of a multi-axis swing shall extend a minimum distance of 6 feet plus the length of the suspending members, and shall never overlap the use zone of another piece of equipment.

(v) The use zone for merry-go-rounds shall never overlap the use zone of another piece of equipment.

(vi) The use zone for spring rockers shall extend a minimum of 6 feet from the at-rest perimeter of the equipment.

(b) Protective cushioning is required in all use zones.

(c) If sand, gravel, or shredded tires are used as protective cushioning, the depth of the material shall meet the CPSC guidelines in Table 1. The provider shall ensure that the material is periodically checked for compaction, and if compacted, shall loosen the material to the depth listed in Table 1. If the material cannot be loosened due to extreme weather conditions, the provider shall not allow children to play on the equipment until the material can be loosened to the required depth.

TABLE 1
Depths of Protective Cushioning Required for Sand, Gravel, and Shredded Tires

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine Sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires
4' high or less	6"	6"	6"	6"	6"
Over 4' up to 5'	6"	6"	6"	6"	6"
Over 5' up to 6'	12"	12"	6"	12"	6"
Over 6' up to 7'	12"	Not Allowed	9"	Not Allowed	6"
Over 7' up to 8'	12"	Not Allowed	12"	Not Allowed	6"
Over 8' up to 9'	12"	Not Allowed	12"	Not Allowed	6"
Over 9' up to 10'	Not Allowed	Not Allowed	12"	Not Allowed	6"
Over 10' up to 11'	Not Allowed	Not Allowed	Not Allowed	Not Allowed	6"
Over 11' up to 12'	Not Allowed	Not Allowed	Not Allowed	Not Allowed	6"

(d) If shredded wood products are used as protective cushioning, the depth of the shredded wood shall meet the CPSC guidelines in Table 2.

TABLE 2

Depths of Protective Cushioning Required for Shredded Wood Products

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered Wood Fibers	Double Shredded Wood Chips	Bark Mulch
4' high or less	6"	6"	6"
Over 4' up to 5'	6"	6"	6"
Over 5' up to 6'	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 8'	12"	9"	9"
Over 8' up to 9'	12"	9"	9"
Over 9' up to 10'	12"	9"	9"
Over 10' up to 11'	12"	12"	12"
Over 11'	12"	Not Allowed	Not Allowed

(e) If wood products are used as cushioning material:

(i) the providers shall maintain documentation from the manufacturer verifying that the material meets ASTM Specification F 1292, which is adopted by reference; and

(ii) there shall be adequate drainage under the material.

(f) If a unitary cushioning material, such as rubber mats or poured rubber-like material is used as protective cushioning:

(i) the licensee shall ensure that the material meets the standard established in ASTM Specification F 1292. The provider shall maintain documentation from the manufacturer that the material meets these specifications.

(ii) the licensee shall ensure that the cushioning material is securely installed, so that it cannot become displaced when children jump, run, walk, land, or move on it, or be moved by children picking it up.

(g) Stationary play equipment that has a designated play surface less than 30 inches and that does not have moving parts children sit or stand on, may be placed on grass, but shall not be placed on concrete, asphalt, dirt, or any other hard surface.

(h) Stationary play equipment shall have protective barriers on all play equipment platforms that are over 48 inches above the ground. The bottom of the protective barrier shall be less than 3-1/2 inches above the surface of the platform, and there shall be no openings greater than 3-1/2 inches in the barrier. The top of the protective barrier shall be at least 38 inches above the surface of the platform.

(i) There shall be no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on any piece of stationary play equipment, or within or adjacent to the use zone of any piece of stationary play equipment.

(j) There shall be no protrusion or strangulation hazards [~~in or~~]on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.

(k) There shall be no crush, shearing, or sharp edge hazards [~~in or~~]on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.

(l) There shall be no tripping hazards, such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

(10) The outdoor play equipment rules specified in Subsection (9) above must be in compliance by the following dates:

(a) by December 31, 2009: R430-70-6(9)(b-f). There is protective cushioning in all existing use zones that meets the requirements for depth and ASTM Standards.

(b) by December 31, 2010:

(i) R430-70-6(9)(g). Stationary play equipment that has a designated play surface less than 30 inches, and that does not have moving parts children sit or stand on, is not placed on concrete, asphalt, dirt, or any other hard surface, unless equipment is installed in concrete or asphalt footings.

(ii) R430-70-6(9)(j). There are no protrusion or strangulation hazards in or adjacent to the use zone of any piece of stationary play equipment.

(c) By December 31, 2011: R430-70-6(9)(g). Stationary play equipment that has a designated play surface less than 30 inches, and that does not have moving parts children sit or stand on, is not placed on concrete, asphalt, dirt, or any other hard surface.

(d) By December 31, 2012:

(i) R430-70-6(9)(h). Protective barriers are installed on all stationary play equipment that requires them, and the barriers meet the required specifications.

(ii) R430-70-6(9)(i). There are no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on any piece of stationary play equipment, or within or adjacent to the use zone of any piece of stationary play equipment.

(iii) R430-70-6(9)(k). There are no crush, shearing, or sharp edge hazards in or adjacent to the use zone of any piece of stationary play equipment.

(e) By December 31, 2011:

(i) R430-70-6(9)(a)(i-vi). All stationary play equipment has use zones that meet the required measurements.

(ii) R430-70-6(9)(l). There are no tripping hazards, such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

(11) The provider shall maintain playgrounds and playground equipment to protect children's safety.

R430-70-7. Personnel.

(1) The program must have a director who is at least 21 years of age and who has one of the following educational credentials:

(a) an associates, bachelors, or graduate degree from an accredited college and successful completion of at least 12 semester credit hours of coursework in childhood development, elementary education, or a related field;

(b) a currently valid national certification such as a Certified Childcare Professional (CCP) issued by the National Child Care Association, a Child Development Associate (CDA) issued by the Council for Early Childhood Professional Recognition, or other credential that the licensee demonstrates as equivalent to the Department; or

(c) a currently valid National Administrator Credential (NAC) issued by the National Child Care Association, plus one of the following:

(i) valid proof of successful completion of 12 semester credit hours of coursework in childhood development, elementary education, or a related field; or

(ii) valid proof of completion of the following six Utah Career Ladder courses offered through Child Care Resource and Referral: Child Development: Ages & Stages; Advanced Child Development; School Age Course 1; School Age Course 2; School Age Course 3; and School Age Course 4.

(2) All caregivers shall be at least 18 years of age.

(3) All assistant caregivers shall be at least 16 years of

age, and shall work under the immediate supervision of a caregiver who is at least 18 years of age.

(4) Assistant caregivers may be included in caregiver to child ratios, but shall not be left unsupervised with children.

(5) Assistant caregivers shall meet all of the caregiver requirements under this rule, except the caregiver age requirement of 18 years.

(6) Whenever there are more than 8 children at the program, there shall be at least two caregivers present who can demonstrate the English literacy skills needed to care for children and respond to emergencies. If there is only one caregiver present because there are 8 or fewer children at the program, that caregiver must be able to demonstrate the English literacy skills needed to care for children and respond to emergencies.

(7) Each new director, assistant director, caregiver, assistant caregiver, and volunteer shall receive orientation training prior to assuming caregiving duties. Orientation training shall be documented and shall include the following topics:

(a) job description and duties;

(b) the program's written policies and procedures;

(c) the program's emergency and disaster plan;

(d) the current child care licensing rules found in Sections R430-70-11 through 22;

(e) introduction and orientation to the children assigned to the caregiver;

(f) a review of the information in the health assessment for each child in their assigned group;

(g) procedure for releasing children to authorized individuals only;

(h) proper clean up of body fluids;

(i) signs and symptoms of child abuse and neglect, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;

(j) obtaining assistance in emergencies, as specified in the program's emergency and disaster plan.

(8) The program director, assistant director, all caregivers, and substitutes who work an average of 10 hours a week or more, as averaged over any three month period, shall complete a minimum of 2 hours of training for each month during which they are employed, or 20 hours of training each year, based on the program's license date.

(a) Documentation of annual training shall be kept in each caregiver's file, and shall include the name of the training organization, the date, the training topic, and the total hours or minutes of training.[

~~(b) Caregivers who begin employment partway through the license year shall complete a proportionate number of training hours based on the number of months worked prior to the program's relicense date.~~]

[~~(c)~~](b) Annual training hours shall include the following topics:

(i) a review of the current child care licensing rules found in Sections R430-70-11 through 22;

(ii) a review of the program's written policies and procedures and emergency and disaster plans, including any updates;

(iii) signs and symptoms of child abuse and neglect, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;

(iv) principles of child growth and development, including development of the brain; and

(v) positive guidance.

(9) A minimum of 10 hours of the required annual in-service training shall be face-to-face instruction.

R430-70-8. Administration.

(1) The licensee is responsible for all aspects of the operation and management of the program.

(2) The licensee shall comply with all federal, state, and local laws and rules pertaining to the operation of a child care program.

(3) The provider shall not engage in or allow conduct that is adverse to the public health, morals, welfare, and safety of the children in care.

(4) The provider shall take all reasonable measures to protect the safety of children in care. The licensee shall not engage in activity or allow conduct that unreasonably endangers children in care.

(5) Either the program director or a designee with written authority to act on behalf of the program director shall be present at the facility whenever the program is open for care.

(6) Director designees shall be at least 21 years of age, and shall have completed their orientation training.

(7) Each week, the program director shall be on-site at the program during operating hours for at least 50% of the time the program is open to children, in order to fulfill the duties specified in this rule, and to ensure compliance with this rule.

(8) The program director must have sufficient freedom from other responsibilities to manage the program and respond to emergencies.

(9) There shall be a working telephone at the facility, and the program director shall inform a parent and the Department of any changes to the program's telephone number within 48 hours of the change.

(10) The provider shall call the Department within 24 hours to report any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless an emergency medical transport was part of a child's medical treatment plan identified by the parent. The provider shall also mail or fax a written report to the Department within five days of the incident.

(11) The duties and responsibilities of the program director include the following:

(a) appoint, in writing, one or more caregivers to be a director designee, with authority to act on behalf of the program director in his or her absence;

(b) train and supervise staff to:

(i) ensure their compliance with this rule;

(ii) ensure they meet the needs of the children in care as specified in this rule; and

(iii) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.

(12) The provider shall establish and follow written policies and procedures for the health and safety of the children in care. The written policies and procedures shall address at least the following areas:

(a) supervision and protection of children at all times, including when they are using the bathroom, on the playground, and

during off-site activities;

(b) maintaining required caregiver to child ratios when the program has more than the expected number of children, or fewer than the scheduled number of caregivers;

(c) procedures to account for each child's attendance and whereabouts;

(d) procedures to ensure that the program releases children to authorized individuals only;

(e) confidentiality and release of information;

(f) the use of movies and video or computer games, including what industry ratings the program allows;

(g) recognizing early signs of illness and determining when there is a need for exclusion from the program;

(h) discipline of children, including behavioral expectations of children and discipline methods used;

(i) transportation to and from off-site activities, or to and from home, if the program offers these services; and

(j) if the program offers transportation to or from school, policies addressing:

(i) how long children will be unattended before and after school;

(ii) what steps will be taken if children fail to meet the vehicle;

(iii) how and when parents will be notified of delays or problems with transportation to and from school; and

(iv) the use of size-appropriate safety restraints.

(k) if the program has a computer that is connected to the internet and that is accessible to any child in care:

(i) written policies for parents explaining how children's computer use is monitored; and

(ii) a signed parent permission form for each child who is allowed to use the computer.

(13) The provider shall ensure that the written policies and procedures are available for review by parents, staff, and the Department during business hours.

R430-70-9. Records.

(1) The provider shall maintain the following general records on-site for review by the Department:

(a) documentation of the previous 12 months of fire and disaster drills as specified in R430-10(11)(12)(13)(14);

(b) current animal vaccination records as required in R430-70-22(3);

(c) a six week record of child attendance, including sign-in and sign-out records;

(d) all current variances granted by the Department;

(e) a current local health department inspection;

(f) a current local fire department inspection;

(g) if the licensee has been licensed for one or more years, the most recent "Request for Annual Renewal of CBS/MIS Criminal History Information for Child Care" which includes the licensee all current providers, caregivers, and volunteers;

(h) if the licensee has been licensed for one or more years, the most recent criminal background "Disclosure and Consent Statement" which includes the licensee and all current providers, caregivers, and volunteers; and

(2) The provider shall maintain the following records for each currently enrolled child on-site for review by the Department:

(a) an admission form containing the following information for each child:

(i) name;

(ii) date of birth;

(iii) date of enrollment;

(iv) the parent's name, address, and phone number, including a daytime phone number;

(v) the names of people authorized by the parent to pick up the child;

(vi) the name, address and phone number of a person to be contacted in the event of an emergency if the provider is unable to contact the parent;

(vii) if available, the name, address, and phone number of an out of area/state emergency contact person for the child[~~, if available~~]; and

(viii) current emergency medical treatment and emergency medical transportation releases with the parent's signature;

(b) a current annual health assessment form as required in R430-70-14(5);

(c) a transportation permission form, if the program provides transportation services;

(d) a six week record of medication permission forms, and a six week record of medications actually administered; and

(e) a six week record of incident, accident, and injury reports.

(3) The provider shall ensure that information in children's files is not released without written parental permission.

(4) The provider shall maintain the following records for each staff member on-site for review by the Department:

(a) date of initial employment;

(b) results of initial TB screening;

(c) approved initial "CBS/MIS Consent and Release of Liability for Child Care" form;

(d) a six week record of days and hours worked;

(e) orientation training documentation for caregivers, and for volunteers who work at the program at least once each month;

(f) annual training documentation for all providers and substitutes who work an average of 10 hours a week or more, as averaged over any three month period; and

(g) current first aid and CPR certification, if applicable as required in R430-70-10(2), R430-70-20(5)(d), and R430-70-21(2).

R430-70-10. Emergency Preparedness.

(1) The provider shall post the program's street address and emergency numbers, including ambulance, fire, police, and poison control, near each telephone in the [~~program~~]facility.

(2) At least one person at the facility at all times when children are in care shall have a current Red Cross, American Heart Association, or equivalent first aid and CPR certification.

(3) The program shall maintain at least one readily available first aid kit, and a second first aid kit for field trips if the program takes children on field trips. [~~The~~]A first aid kit that includes the items specified below must be taken on each field trip. The first aid kit shall include the following items:

(a) disposable gloves;

(b) assorted sizes of bandaids;

(c) gauze pads and roll;

(d) adhesive tape;

(e) antiseptic or a topical antibiotic;

(f) tweezers; and

(g) scissors.

(4) The provider shall have a written emergency and disaster plan which shall include at least the following:

(a) procedures for responding to medical emergencies and serious injuries that require treatment by a health care provider;

(b) procedures for responding to fire, earthquake, flood, power failure, and water failure;

(c) the location of and procedure for emergency shut off of gas, electricity, and water;

(d) an emergency relocation site where children may be housed if the facility is uninhabitable;

(e) a means of posting the relocation site address in a conspicuous location that can be seen even if the facility is closed;

(f) the transportation route and means of getting staff and children to the emergency relocation site;

(g) a means of accounting for each child's presence in route to and at the relocation site;

(h) a means of accessing children's emergency contact information and emergency releases; including contact information for an out of area/state emergency contact person for the child, if available;

(i) provisions for emergency supplies, including at least food, water, a first aid kit, and a cell phone;

(j) procedures for ensuring adequate supervision of children during emergency situations, including while at the program's emergency relocation site; and

(k) staff assignments for specific tasks during an emergency.

(5) The provider shall ensure that the emergency and disaster plan is followed in the event of an emergency.

(6) The provider shall review the emergency and disaster plan annually, and update it as needed. The provider shall note the date of reviews and updates to the plan on the plan.

(7) The emergency and disaster plan shall be available for immediate review by staff, parents, and the Department during business hours.

(8) The provider shall conduct fire evacuation drills monthly during each month that the program is open. Drills shall include complete exit of all children and staff from the building.

(9) The provider shall document all fire drills, including:

(a) the date and time of the drill;

(b) the number of children participating;

(c) the name of the person supervising the drill;

(d) the total time to complete the evacuation; and

(e) any problems encountered.

(10) The provider shall conduct drills for disasters other than fires at least once every six months that the program is open.

(11) The provider shall document all disaster drills, including:

(a) the type of disaster, such as earthquake, flood, prolonged power outage, tornado;

(b) the date and time of the drill;

(c) the number of children participating;

(d) the name of the person supervising the drill; and

(e) any problems encountered.

(12) The program shall vary the days and times on which fire and other disaster drills are held.

R430-70-13. Parent Notification and Child Security.

(1) The provider shall post a copy of the Department's child care guide in the facility for parents' review during business hours.

(2) Parents shall have access to the facility and their child's classroom at all times their child is in care.

(3) The provider shall ensure the following procedures are followed when children arrive at the facility or leave the facility:

(a) Each child must be signed in and out of the facility by the person dropping the child off and picking the child up, including the date and time the child arrives or leaves.

(b) Children may sign themselves in and out of the program only with written permission from the parent.

(c) Persons signing children into the facility shall use identifiers, such as a signature, initials, or electronic code.

(d) Persons signing children out of the facility shall use identifiers, such as a signature, initials, or electronic code, and shall have photo identification if they are unknown to the provider.

(e) Only parents or persons with written authorization from the parent may take any child from the facility. In an emergency, the provider may accept verbal authorization if the provider can confirm the identity of the person giving the verbal authorization and the identity of the person picking up the child.

(4) The provider shall give parents a written report of every incident, accident, or injury involving their child on the day of occurrence. The caregivers involved, the program director or director designee, and the person picking the child up shall sign the report on the day of occurrence. If the child signs him or herself out of the program, a copy of the report shall be mailed to the parent.

(5) If a child is injured and the injury appears serious but not life threatening, the provider shall contact the parent immediately, in addition to giving the parent a written report of the injury.

(6) In the case of a life threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb, the provider shall contact emergency personnel immediately, before contacting the parent. If the parent cannot be reached after emergency personnel have been contacted, the provider shall attempt to contact the child's emergency contact person.

R430-70-16. Infection Control.

(1) All staff shall wash their hands thoroughly with liquid soap and warm running water at the following times:

(a) before handling or preparing food;

(b) before eating meals and snacks or feeding children;

(c) after using the toilet;

(d) before administering medication;

(e) after coming into contact with body fluids;

(f) after playing with or handling animals; and

(g) after cleaning or taking out garbage.

(2) The provider shall ensure that children wash their hands thoroughly with liquid soap and warm running water at the following times:

(a) before eating meals and snacks;

(b) after using the toilet;

(c) after coming into contact with body fluids; and

(d) after playing with animals.

(3) Only single use towels from a covered dispenser or an electric hand-drying device may be used to dry hands.

(4) The provider shall ensure that toilet paper is accessible to children, and that it is kept on a dispenser.

(5) The provider shall post handwashing procedures in each bathroom, and they shall be followed.

(6) Caregivers shall teach children proper hand washing techniques and shall oversee hand washing whenever possible.

(7) Personal hygiene items such as toothbrushes, or combs and hair accessories that are not sanitized between each use, shall not be shared by children or used by staff on more than one child, and shall be stored so that they do not touch each other.

(8) The provider shall clean and sanitize all washable toys and materials weekly, or more often if necessary.

(9) Stuffed animals, cloth dolls, and dress-up clothes must be machine washable. Pillows must be machine washable, or have removable covers that are machine washable. The provider shall wash stuffed animals, cloth dolls, dress-up clothes, and pillows or covers weekly.

(10) If water play tables or tubs are used, they shall be washed and sanitized daily, and children shall wash their hands prior to engaging in the activity.

(11) The licensee shall ensure that all employees are tested for tuberculosis (TB) within thirty days of hire by an acceptable skin testing method and follow-up.

(12) If the TB test is positive, the caregiver shall provide documentation from a health care provider detailing:

(a) the reason for the positive reaction;

(b) whether or not the person is contagious; and

(c) if needed, how the person is being treated.

(13) Persons with contagious TB shall not work or volunteer in the program.

(14) An employee having a medical condition which contra-indicates a TB test must provide documentation from a health care provider indicating they are exempt from testing, with an associated time frame, if applicable. The provider shall maintain this documentation in the employee's file.

(15) Children's clothing shall be changed promptly if they have a toileting accident.

(16) Children's clothing which is wet or soiled from body fluids:

(a) shall not be rinsed or washed at the facility; and

(b) shall be placed in a leakproof container, labeled with the child's name, and returned to the parent.

(17) The facility shall have a portable body fluid clean up kit.

(a) All staff shall know the location of the kit and how to use it.

(b) The provider shall use the kit to clean up spills of body fluids.

(c) The provider shall restock the kit as needed.

(18) The program shall not care for children who are ill with [~~an~~]a suspected infectious disease, except when a child shows signs of illness after arriving at the facility.

(19) The provider shall separate children who develop signs of [~~an~~]a suspected infectious disease after arriving at the facility from the other children in a safe, supervised location.

(20) The provider shall contact the parents of children who are ill with [~~an~~]a suspected infectious disease and ask them to immediately pick up their child. If the provider cannot reach the parent, the provider shall contact the individuals listed as emergency contacts for the child and ask them to pick up the child.

(21) The provider shall notify the local health department, on the day of discovery, of any reportable infectious diseases among children or caregivers, or any sudden or extraordinary occurrence of a serious or unusual illness, as required by the local health department.

(22) The provider shall post a parent notice at the facility when any staff or child has an infectious disease or parasite.

(a) The provider shall post the notice in a conspicuous location where it can be seen by all parents.

(b) The provider shall post and date the notice the same day the disease or parasite is discovered, and the notice shall remain posted for at least 5 days.

R430-70-18. Napping.

If the program offers children the opportunity for rest:

(1) The provider shall maintain sleeping equipment in good repair.[

~~(2) Sleeping equipment must be cleaned and sanitized prior to each use.~~]

(2) If sleeping equipment is clearly assigned to and used by an individual child, the provider must clean and sanitize it as needed, but at least weekly.

(3) If sleeping equipment is not clearly assigned to and used by an individual child, the provider must clean and sanitize it prior to each use.

[~~(3)~~](4) Sleeping equipment may not block exits at any time.

R430-70-20. Activities.

(1) The provider shall post a daily schedule of activities. The daily schedule shall include, at a minimum, meal, snack, and outdoor play times.

(2) On days when children are in care for four or more hours, daily activities shall include outdoor play if weather permits.

(3) The provider shall offer activities to support each child's healthy physical, social-emotional, and cognitive-language development. The provider shall post a current activity plan for parent review listing these activities.

(4) The provider shall make the toys and equipment needed to carry out the activity plan accessible to children.

(5) If off-site activities are offered:

(a) the provider shall obtain written parental consent for each activity in advance;

(b) caregivers shall take written emergency information and releases with them for each child in the group, which shall include:

(i) the child's name;

(ii) the parent's name and phone number;

(iii) the name and phone number of a person to notify in the event of an emergency if the parent cannot be contacted;

(iv) the names of people authorized by the parents to pick up the child; and

(v) current emergency medical treatment and emergency medical transportation releases;

(c) the provider shall maintain required caregiver to child ratios and direct supervision during the activity;

(d) at least one caregiver present shall have a current Red Cross, American Heart Association, or equivalent first aid and CPR

certification;

(e) caregivers shall take a first aid kit with them;

(f) children shall wear or carry with them the name and phone number of the program, but children's names shall not be used on name tags, t-shirts, or other identifiers; and

(g) caregivers shall provide a way for children to wash their hands as specified in R430-70-16(2). If there is no source of running water, caregivers and children may clean their hands with wet wipes and hand sanitizer.

(6) If swimming activities are offered, caregivers shall remain with the children during the activity, and lifeguards and pool personnel shall not count toward the caregiver to child ratio.

KEY: child care facilities, child care, child care centers
Date of Enactment or Last Substantive Amendment: 2009
Authorizing, Implemented, or Interpreted Law: 26-39

Health, Health Systems Improvement, Licensing
R432-3
General Health Care Facility Rules Inspection and Enforcement

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 33137
FILED: 11/02/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change is proposed to amend three parts of the rule: 1) to change the licensing inspection requirements from annually to optional; 2) to change the civil money penalty limits in rule from a maximum of $5,000 to $10,000 per H.B. 32 (2009); and 3) to remove old rule language pertaining to the Bureaus of Licensing and Certification as two separate bureaus. These bureaus were combined in 2004. (DAR NOTE: H.B. 32 (2009) is found at Chapter 347, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: The first rule change will change the word "shall" to "may", to direct the Department's inspection duties from annually to a non-specified time frame. The second rule change will add the provision of a civil money penalty to the section of rule outlining sanction actions that can be taken for non-compliant providers. This change will also include an increase from the previous maximum of $5,000 to $10,000. The third change will remove Section R432-3-9 from the rule that referred to agreements between the two bureaus that have been combined since 2004. These no longer apply.

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

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: This rule change will have no effect on state budgets. Licensing inspection schedules are already being done as needed. The civil money penalty funds are not usable as general budget funds.
♦ LOCAL GOVERNMENTS: Since no local governments are required to utilize the Bureau of Criminal Identification (BCI) rule, there is no cost or savings to any local governments.
♦ SMALL BUSINESSES: This rule change may increase civil money penalties for small businesses that are licensed as health facilities, and receive sanctions from the Department. On average, small businesses could see an increase of $5,000 in civil money penalties issued by the Department. This would apply only if the providers were severely non-compliant and received money penalties.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule change may increase civil money penalties for other businesses that are licensed as health facilities, and receive sanctions from the Department. On average, these providers could see an increase of $10,000 in civil money penalties issued by the Department. This would apply only if the providers were severely non-compliant and received money penalties.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for the Department. However, this change to the civil money penalty limits may increase compliance costs to providers who are severely out of compliance with state rules. A total of $18,875 was collected in FY 2009 from licensed health providers that were severely out of compliance with state rules. This total could increase in FY 2010 if similar sanctions are enforced.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Civil money penalties are an important tool to encourage voluntary compliance with licensing standards. Due process protections are in place. The overall fiscal impact is small and may be avoided by following licensing requirements.
THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carmen Richins by phone at 801-538-9087, by FAX at 801-538-6024, or by Internet E-mail at carmenrichins@utah.gov
♦ Joel Hoffman by phone at 801-538-6279, by FAX at 801-538-6024, or by Internet E-mail at jhoffman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: David Sundwall, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-3. General Health Care Facility Rules Inspection and Enforcement.
R432-3-2. Purpose.

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

R432-3-4. Statement of Findings.

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

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

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

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

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

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

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

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

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

(5) The Statement of Findings shall include:

(a) the statute or rule violated;

(b) a description of the violation;

(c) the facts which constitute the violation; and

(d) the classification of the violation.

R432-3-6. Sanction Action on License.

(1) The Department may initiate an action against a health facility or agency pursuant to Section 26-21-11. That action may include the following sanctions:

(a) denial or revocation of a license if the facility or agency fails to comply with the rules established by the Committee, or demonstrates conduct adverse to the public health, morals, welfare, and safety of the people of the state;

(b) restriction or prohibition on admissions to a health facility or agency for:

(i) any Class I deficiency,

(ii) Class II deficiencies that indicate a pattern of care and have resulted in the substandard quality of care of patients,

(iii) repeat Class I or II deficiencies that demonstrate continuous noncompliance or chronic noncompliance with the rules, or

(iv) permitting, aiding, or abetting the commission of any illegal act in the facility or agency;

(c) distribution of a notice of public disclosure to at least one newspaper of general circulation or other media form stating the violation of licensing rules or illegal conduct permitted by the facility or agency and the Department action taken;

(d) placement of Department employees or Department-approved individuals as monitors in the facility or agency until such time as corrective action is completed or the facility or agency is closed;

(e) assessment of the cost incurred by the Department in placing the monitors to be reimbursed by the facility or agency;[~~ or~~]

(f) during the correction period, placement of a temporary manager to ensure the health and safety of the patients[-]; or

(g) issuance of a civil money penalty pursuant to UCA 26-23-6, not to exceed the sum of $10,000 per violation.

(2) If the Department imposes a restriction or prohibition on admissions to a long-term care facility or agency, the Department shall send a written notice to the licensee.

(a) The licensee shall post the copies of the notice on all public entry doors to the licensed long-term care facility or agency.

(b) The Department shall impose the restriction or prohibition if:

(i) the long-term care facility or agency has previously received a restriction or prohibition on admissions within the previous 24 month period; or

(ii) the long-term care facility or agency has failed to meet the timeframes in the Plan of Correction which is the basis for the restriction or prohibition on admissions; or

(iii) circumstances in the facility or agency indicate actual harm, a pattern of harm, or a serious and immediate threat to patients.

(3) If telephone inquiries are made to a long-term care facility or agency with a restriction or prohibition on admissions, the facility or agency shall inform the caller, during the call, about the restriction or prohibition on admissions. If the facility or agency fails to inform the caller, the department may assess penalties as allowed by statute and shall require the facility or agency to post a written notice on all public entry doors.

[~~**R432-3-9. Medicare/Medicaid Certification.**~~

~~(1) The Department may accept survey and complaint investigation findings of the Bureau of Medicare/Medicaid Program Certification and Resident Assessment as its own in the conduct of the Bureau of Licensing responsibilities under state law.~~

~~(2) The Bureau of Licensing may review all Statements of Findings and Plans of Correction, including surveys, follow up surveys, and complaint investigation actions, completed by the Bureau of Medicare/Medicaid Program Certification and Resident Assessment. The Statements of Findings and Plans of Correction may be reviewed for compliance with state rules to include:~~

~~(a) assessment of chronic non-compliance history in accordance with Subsection R432-1-3(26);~~

~~(b) assessment of continuous non-compliance history in accordance with Subsection R432-1-3(30).~~

]**KEY: health facilities**
Date of Enactment or Last Substantive Amendment: [~~March 13, 2003~~]2009
Notice of Continuation: December 24, 2008
Authorizing, and Implemented or Interpreted Law: 26-21-5; 26-21-14 through 26-21-16

Health, Health Systems Improvement, Licensing
R432-10-8
Penalties

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33119
FILED: 11/02/2009

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change was reviewed by the Health Facilities Committee and approved. This committee has representation from a broad cross section of the entities affected by this rule. This rule change is proposed to amend two parts of the rule: 1) to change the civil money penalty limits in rule from a maximum of $5,000 to $10,000 per H.B. 32 (2009); and 2) to remove old rule language pertaining to the Bureaus of Licensing and Certification as two separate bureaus. These bureaus were combined in 2004. (DAR NOTE: H.B. 32 (2009) is found at Chapter 347, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: The first rule change will include an increase from the previous maximum of $5,000 to $10,000. The second change will change the wording of "Bureau of Licensing" to "licensing agency".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21 and Title 26, Chapter 23

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Civil money penalties are issued to providers who are not in compliance with state rules.
♦ LOCAL GOVERNMENTS: Some hospital facilities that are a part of the local government may possibly be affected by the increase in civil money penalties if they are not in compliance with state rules.
♦ SMALL BUSINESSES: In the state fiscal year 2009, no small businesses were assessed a civil money penalty for violation of Section R432-10-8. It is possible but not likely, with this rule change that a small business could be assessed a $10,000 civil money penalty.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: In the state fiscal year 2009, no businesses were assessed a civil money penalty for violation of Section R432-10-8. It is possible but not likely, with this rule change that a business could be assessed a $10,000 civil money penalty.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In the state fiscal year 2009, no businesses were assessed a civil money penalty for violation of Section R432-10-8. It is possible but not likely, with this rule change that a business could be assessed a $10,000 civil money penalty.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Civil money penalties are an important tool to encourage voluntary compliance with licensing standards. Due process protections are in place. The overall fiscal impact is small and may be avoided by following licensing requirements.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carmen Richins by phone at 801-538-9087, by FAX at 801-538-6024, or by Internet E-mail at carmenrichins@utah.gov
♦ Joel Hoffman by phone at 801-538-6279, by FAX at 801-538-6024, or by Internet E-mail at jhoffman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: David Sundwall, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-10. Specialty Hospital - Long-Term Acute Care Construction Rule.
R432-10-8. Penalties.

The Department may assess a civil money penalty of up to $[~~5,000~~]10,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to $[~~5,000~~]10,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to $[~~500~~]1,000 per day for each day a new or renovated area is occupied prior to [~~Bureau of Licensing~~]licensing agency approval.

KEY: health facilities
Date of Enactment or Last Substantive Amendment: [~~December 10, 2002~~]2009
Notice of Continuation: January 28, 2005
Authorizing, and Implemented or Interpreted Law: 26-21-5; 26-21-2.1; 26-21-20

Health, Health Systems Improvement, Licensing
R432-11-7
Penalties

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33120
FILED: 11/02/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change was reviewed by the Health Facilities Committee and approved. This committee has representation from a broad cross section of the entities affected by this rule. This rule change is proposed to amend two parts of the rule: 1) to change the civil money penalty limits in rule from a maximum of $5,000 to $10,000 per H.B. 32 (2009); and 2) to remove old rule language pertaining to the Bureaus of Licensing and Certification as two separate bureaus. These bureaus were combined in 2004. (DAR NOTE: H.B. 32 (2009) is found at Chapter 347, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: The first rule change will include an increase from the previous maximum of $5,000 to $10,000. The second change will change the wording of "Bureau of Licensing" to "licensing agency".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21 and Title 26, Chapter 23

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Civil money penalties are issued to providers who are not in compliance with state rules.
♦ LOCAL GOVERNMENTS: Some hospital facilities that are a part of the local government may possibly be affected by the increase in civil money penalties if they are not in compliance with state rules.
♦ SMALL BUSINESSES: In the state fiscal year 2009, no small businesses were assessed a civil money penalty for violation of Section R432-11-7. It is possible but not likely, with this rule change that a small business could be assessed a $10,000 civil money penalty.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: In the state fiscal year 2009, no businesses were assessed a civil money penalty for violation of Section R432-11-7. It is possible but not likely, with this rule change that a business could be assessed a $10,000 civil money penalty.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In the state fiscal year 2009, no businesses were assessed a civil money penalty for violation of Section R432-11-7. It is possible but not likely, with this rule change that a business could be assessed a $10,000 civil money penalty.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Civil money penalties are an important tool to encourage voluntary compliance with licensing standards. Due process protections are in place. The overall fiscal impact is small and may be avoided by following licensing requirements.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carmen Richins by phone at 801-538-9087, by FAX at 801-538-6024, or by Internet E-mail at carmenrichins@utah.gov
♦ Joel Hoffman by phone at 801-538-6279, by FAX at 801-538-6024, or by Internet E-mail at jhoffman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: David Sundwall, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-11. Orthopedic Hospital Construction.
R432-11-7. Penalties.

The Department may assess a civil money penalty of up to $[~~5,000~~]10,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to $[~~5,000~~]10,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to $[~~500~~]1,000 per day for each day a new or renovated area is occupied prior to [~~Bureau of Licensing~~]licensing agency approval.

KEY: health facilities
Date of Enactment or Last Substantive Amendment: [~~December 10, 2002~~]2009
Notice of Continuation: January 28, 2005
Authorizing, and Implemented or Interpreted Law: 26-21-5; 26-21-2.1; 26-21-20

Health, Health Systems Improvement, Licensing
R432-12-25
Penalties

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33121
FILED: 11/02/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change was reviewed by the Health Facilities Committee and approved. This committee has representation from a broad cross section of the entities affected by this rule. This rule change is proposed to amend two parts of the rule: 1) to change the civil money penalty limits in rule from a maximum of $5,000 to $10,000 per H.B. 32 (2009); and 2) to remove old rule language pertaining to the Bureaus of Licensing and Certification as two separate bureaus. These bureaus were combined in 2004. (DAR NOTE: H.B. 32 (2009) is found at Chapter 347, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: The first rule change will include an increase from the previous maximum of $5,000 to $10,000. The second change will change the wording of "Bureau of Licensing" to "licensing agency".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21 and Title 26, Chapter 23

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Civil money penalties are issued to providers who are not in compliance with state rules.
♦ LOCAL GOVERNMENTS: Some small health care facilities that are a part of the local government may possibly be affected by the increase in civil money penalties if they are not in compliance with state rules.
♦ SMALL BUSINESSES: In the state fiscal year 2009, no small businesses were assessed a civil money penalty for violation of Section R432-12-25. It is possible but not likely, with this rule change that a small business could be assessed a $10,000 civil money penalty.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: In the state fiscal year 2009, no businesses were assessed a civil money penalty for violation of Section R432-12-25. It is possible but not likely, with this rule change that a business could be assessed a $10,000 civil money penalty.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In the state fiscal year 2009, no businesses were assessed a civil money penalty for violation of Section R432-12-25. It is possible but not likely, with this rule change that a business could be assessed a $10,000 civil money penalty.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Civil money penalties are an important tool to encourage voluntary compliance with licensing standards. Due process protections are in place. The overall fiscal impact is small and may be avoided by following licensing requirements.

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INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: David Sundwall, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-12. Small Health Care Facility (Four to Sixteen Beds) Construction Rule.
R432-12-25. Penalties.

The Department may assess a civil money penalty of up to $[~~5,000~~]10,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to $[~~5,000~~]10,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to $[~~500~~]1,000 per day for each day a new or renovated area is occupied prior to [~~Bureau of Licensing~~]licensing agency approval.

KEY: health facilities
Date of Enactment or Last Substantive Amendment: [~~December 10, 2002~~]2009
Notice of Continuation: January 28, 2005
Authorizing, and Implemented or Interpreted Law: 26-21-5

Health, Health Systems Improvement, Licensing
R432-13-8
Penalties

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33122
FILED: 11/02/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change was reviewed by the Health Facilities Committee and approved. This committee has representation from a broad cross section of the entities affected by this rule. This rule change is proposed to amend two parts of the rule: 1) to change the civil money penalty limits in rule from a maximum of $5,000 to $10,000 per H.B. 32 (2009); and 2) to remove old rule language pertaining to the Bureaus of Licensing and Certification as two separate bureaus. These bureaus were combined in 2004. (DAR NOTE: H.B. 32 (2009) is found at Chapter 347, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: The first rule change will include an increase from the previous maximum of $5,000 to $10,000. The second change will change the wording of "Bureau of Licensing" to "licensing agency".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21 and Title 26, Chapter 23

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Civil money penalties are issued to providers who are not in compliance with state rules.
♦ LOCAL GOVERNMENTS: No freestanding ambulatory surgical centers are a part of the government system therefore this change will not affect the local government.
♦ SMALL BUSINESSES: In the state fiscal year 2009, no small businesses were assessed a civil money penalty for violation of Section R432-13-8. It is possible but not likely, with this rule change that a small business could be assessed a $10,000 civil money penalty.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: In the state fiscal year 2009, no businesses were assessed a civil money penalty for violation of Section R432-13-8. It is possible but not likely, with this rule change that a business could be assessed a $10,000 civil money penalty.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In the state fiscal year 2009, no businesses were assessed a civil money penalty for violation of Section R432-13-8. It is possible but not likely, with this rule change that a business could be assessed a $10,000 civil money penalty.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Civil money penalties are an important tool to encourage voluntary compliance with licensing standards. Due process protections are in place. The overall fiscal impact is small and may be avoided by following licensing requirements.

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HEALTH
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THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: David Sundwall, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-13. Freestanding Ambulatory Surgical Center Construction Rule.
R432-13-8. Penalties.

The Department may assess a civil money penalty of up to $[~~5,000~~]10,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to $[~~5,000~~]10,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to $[~~500~~]1,000 per day for each day a new or renovated area is occupied prior to [~~Bureau of Licensing~~]licensing agency approval.

KEY: health facilities
Date of Enactment or Last Substantive Amendment: [~~March 13, 2003~~]2009
Notice of Continuation: January 28, 2005
Authorizing, and Implemented or Interpreted Law: 26-21-5; 26-21-16

Health, Health Systems Improvement, Licensing
R432-14-6
Penalties

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33123
FILED: 11/02/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change was reviewed by the Health Facilities Committee and approved. This committee has representation from a broad cross section of the entities affected by this rule. This rule change is proposed to amend two parts of the rule: 1) to change the civil money penalty limits in rule from a maximum of $5,000 to $10,000 per H.B. 32 (2009); and 2) to remove old rule language pertaining to the Bureaus of Licensing and Certification as two separate bureaus. These bureaus were combined in 2004. (DAR NOTE: H.B. 32 (2009) is found at Chapter 347, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: The first rule change will include an increase from the previous maximum of $5,000 to $10,000. The second change will change the wording of "Bureau of Licensing" to "licensing agency".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21 and Title 26, Chapter 23

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Civil money penalties are issued to providers who are not in compliance with state rules.
♦ LOCAL GOVERNMENTS: No birthing centers are a part of the government system therefore this change will not affect the local government.
♦ SMALL BUSINESSES: In the state fiscal year 2009, no small businesses were assessed a civil money penalty for violation of Section R432-14-6. It is possible but not likely, with this rule change that a small business could be assessed a $10,000 civil money penalty.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: In the state fiscal year 2009, no businesses were assessed a civil money penalty for violation of Section R432-14-6. It is possible but not likely, with this rule change that a business could be assessed a $10,000 civil money penalty.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In the state fiscal year 2009, no businesses were assessed a civil money penalty for violation of Section R432-14-6. It is possible but not likely, with this rule change that a business could be assessed a $10,000 civil money penalty.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Civil money penalties are an important tool to encourage voluntary compliance with licensing standards. Due process protections are in place. The overall fiscal impact is small and may be avoided by following licensing requirements.

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THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: David Sundwall, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-14. Birthing Center Construction Rule.
R432-14-6. Penalties.

The Department may assess a civil money penalty of up to $[~~5,000~~]10,000 and deny approval for patient utilization of new or remodeled areas denied if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to $[~~5,000~~]10,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to $[~~500~~]1,000 per day for each day a new or renovated area is occupied prior to [~~Bureau of Licensing~~]licensing agency approval.

KEY: health facilities
Date of Enactment or Last Substantive Amendment: [~~March 13, 2003~~]2009
Notice of Continuation: January 28, 2005
Authorizing, and Implemented or Interpreted Law: 26-21-5; 26-21-16

Health, Health Systems Improvement, Licensing
R432-16-16
Penalties

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33118
FILED: 11/02/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change was reviewed by the Health Facilities Committee and approved. This committee has representation from a broad cross section of the entities affected by this rule. This rule change is proposed to amend two parts of the rule: 1) to change the civil money penalty limits in rule from a maximum of $5,000 to $10,000 per H.B. 32 (2009); and 2) to remove old rule language pertaining to the Bureaus of Licensing and Certification as two separate bureaus. These bureaus were combined in 2004. (DAR NOTE: H.B. 32 (2009) is found at Chapter 347, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: The first rule change will include an increase from the previous maximum of $5,000 to $10,000. The second change will change the wording of "Bureau of Licensing" to "licensing agency".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21 and Title 26, Chapter 23

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Civil money penalties are issued to providers who are not in compliance with state rules.
♦ LOCAL GOVERNMENTS: No hospice inpatient facilities are a part of the government system, therefore this change will not affect the local government.
♦ SMALL BUSINESSES: In the state fiscal year 2009, no small businesses were assessed a civil money penalty for violation of Section R432-16-16. It is possible but not likely, with this rule change that a small business could be assessed a $10,000 civil money penalty.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: In the state fiscal year 2009, no businesses were assessed a civil money penalty for violation of Section R432-16-16. It is possible but not likely, with this rule change that a business could be assessed a $10,000 civil money penalty.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In the state fiscal year 2009, no businesses were assessed a civil money penalty for violation of Section R432-16-16. It is possible but not likely, with this rule change that a business could be assessed a $10,000 civil money penalty.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Civil money penalties are an important tool to encourage voluntary compliance with licensing standards. Due process protections are in place. The overall fiscal impact is small and may be avoided by following licensing requirements.

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

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INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: David Sundwall, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-16. Hospice Inpatient Facility Construction.
R432-16-16. Penalties.

The Department may assess a civil money penalty up to $[~~5,000~~]10,000 and deny approval for patient utilization of new or remodeled areas if a health care provider does not submit architectural drawings to the Bureau of Licensing. The Department may assess a civil money penalty of up to $[~~5,000,~~]10,000 if the licensee fails to follow Department-approved architectural plans. The Department may assess a civil money penalty of up to $[~~500~~]1,000 per day for each day a new or renovated area is occupied prior to [~~Bureau of Licensing~~]licensing agency approval.

KEY: health facilities
Date of Enactment or Last Substantive Amendment: [~~December 10, 2002~~]2009
Notice of Continuation: February 11, 2008
Authorizing, and Implemented or Interpreted Law: 26-21-5; 26-21-16

Health, Health Systems Improvement, Licensing
R432-35-8
Penalties

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33136
FILED: 11/02/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change is made in accordance with changes from H.B. 32 (2009), which increased civil money penalty limits from $5,000 to $10,000. (DAR NOTE: H.B. 32 (2009) is found at Chapter 347, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: The wording in the background screening rule is amended to include the appropriate citation to Title 26, Chapter 23 Utah Health Code Enforcement Provisions, and also to increase the limits for civil money penalties per H.B. 32 (2009).

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

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: This rule change will have no effect on state budgets. The civil money penalty funds are not usable as general budget funds.
♦ LOCAL GOVERNMENTS: Since no local governments are required to comply with the Bureau of Criminal Identification (BCI) rule, there is no cost or savings to any local governments.
♦ SMALL BUSINESSES: This rule change may increase civil money penalties for small businesses that are licensed as health facilities, and receive sanctions regarding failure to comply with background screening rules. There were no money penalties issued for background screening non-compliance in FY 2009. No civil money penalties are estimated for FY 2010.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule change may increase civil money penalties for other businesses that are licensed as health facilities, and receive sanctions regarding failure to comply with background screening rules. There were no money penalties issued for background screening non-compliance in FY 2009. No civil money penalties are estimated for FY 2010.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for the Department. However, this change to the civil money penalty limits may increase compliance costs to providers who are severely out of compliance with state rules regarding criminal background screening. No penalties were collected in FY 2009 from licensed health providers regarding background screening. No civil money penalties are estimated for FY 2010.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Civil money penalties are an important tool to encourage voluntary compliance with licensing standards. Due process protections are in place. The overall fiscal impact is small and may be avoided by following licensing requirements.

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INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: David Sundwall, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-35. Background Screening.
R432-35-8. Penalties.

The department may impose civil monetary penalties in accordance with Title [~~63, Chapter 46b, Administrative Procedures Act~~]26, Chapter 23, Utah Health Code Enforcement Provisions and Penalties, if there has been a failure to comply with the provisions of this chapter, or rules promulgated pursuant to this chapter, as follows:

(1) if significant problems exist that are likely to lead to the harm of an individual resident, the department may impose a civil penalty of $50 to $1,000 per day; and

(2) if significant problems exist that result in actual harm to a resident, the department may impose a civil penalty of $1,050 to [~~$5,000~~]$10,000 per day.

KEY: health care facilities
Date of Enactment or Last Substantive Amendment: [~~March 13, 2003~~]2009
Notice of Continuation: May 27, 2008
Authorizing, and Implemented or Interpreted Law: 26-21-9.5

Health, Health Systems Improvement, Licensing
R432-700-30
Home Health - Personal Care Service Agency

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33135
FILED: 11/02/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change is proposed to clarify assessment requirements in Personal Care Agencies. Personal Care Agencies are currently submitting variances to the rule that require an assessment for every client that is admitted. Some clients only receive services such as homemaking or errand service, which do not constitute health care. This rule change will clarify which clients need an assessment and alleviate the burden of applying for a variance.

SUMMARY OF THE RULE OR CHANGE: The language for the requirement to complete an assessment is changed to clarify that only clients receiving "personal care services" are required to have an assessment.

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

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: This rule change will save the state budget approximately $500 per year. This is base on an estimate of five variances submitted per year, and the staff time to process the request and reply to the providers.
♦ LOCAL GOVERNMENTS: There is no cost or savings to any local governments. No agencies are owned by local governments.
♦ SMALL BUSINESSES: This rule change will save small businesses approximately $500 per year. This is based on the administrative time to research and fill out a variance form and submit it to the Department. All of these personal care agencies are considered small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no cost or savings to any other group not already listed above.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs. This rule change will only reduce the requirements that personal care agencies will need to complete, and reduce the overall operational costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change adopts a practice that was dealt with in the past through an exception process. This will lessen the impact on business by allowing them to avoid the need to apply for an exception.

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or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
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THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: David Sundwall, Executive Director

R432. Health, Health Systems Improvement, Licensing.
R432-700. Home Health Agency Rule.
R432-700-30. Home Health - Personal Care Service Agency.

(1) A Home Health - Personal Care Service Agency provides personal care services exclusively.

(2) The agency shall develop written policies and procedures that address the delivery of personal care services.

(3) The licensee shall appoint by name and in writing a qualified administrator who is responsible for the agency's overall functions.

(a) The administrator shall have at least one year or managerial or supervisory experience.

(b) The administrator shall designate in writing a qualified person who shall act in his absence and the designee shall have sufficient power, authority, and freedom to act in the best interests of the client safety and well being;

(c) The administrator or designee shall be available during the agency's hours of operation.

(4) Each employee shall be licensed, certified or registered as required in R432-700-10.

(5) Each employee shall complete a health screening as described in R432-700-11.

(6) The agency may accept clients for service if the client's needs do not exceed the level of personal care to be provided by the Home Health- Personal Care Service Agency.

(7) [~~A functional assessment shall be completed~~]The agency shall complete a functional assessment for each client receiving personal care services, prior to admission to the agency and annually thereafter, or at earlier intervals when a significant change in condition occurs.

(a) [~~The functional assessment shall be performed by a~~]A licensed health care professional shall complete the functional assessment. The assessment shall include a statement [~~from the licensed health care professional~~]that [~~the~~]personal care services can be provided safely to the client.

(b) If the functional assessment reveals that the client's needs exceed the personal care services, the health care professional shall make a referral to a home health agency or other alternative service.

(8) The agency shall obtain a signed and dated service agreement from the client and his responsible party, if available. The service agreement shall include the following:

(a) A description of services to be performed by the Personal Care Aide;

(b) Charges for the services;

(c) A statement that a 30-day notice shall be given prior to a change in charges.

(9) The Home Health-Personal Care Service Agency shall maintain and secure client records for each client receiving services.

(a) Client records shall be retained by the agency for three years following the last date of service;

(b) The client record shall contain the following:

(i) Client's name, date of birth and address;

(ii) Client service agreement;

(iii) Name, address, and telephone number of the individual to be notified in case of accident, emergency or death;

(iv) Documentation of date and reason for the termination of services, which may include the following:

(A) Payment for services cannot be met;

(B) The safety of the client or provider cannot be assured;

(C) The needs of the client exceed the level of care provided by the agency;

(D) The client requests termination of services; or

(E) The agency discontinues services.

(v) Documentation of the Personal Care Aide visit.

(10) Personal Care Aides shall meet the qualification of R432-700-23 and be supervised by an individual with the following qualifications:

(a) A Certified Nursing Aide with at least two years experience in personal or home care; or

(b) A licensed health care professional.

(11) The supervisor shall evaluate and document the quality of the personal care services provided in the client's place of residence every six months.

KEY: health facilities
Date of Enactment or Last Substantive Amendment: [~~November 6, 2000~~]2009
Notice of Continuation: September 27, 2007
Authorizing, and Implemented or Interpreted Law: 26-21-5; 26-21-2.1

Health, Epidemiology and Laboratory Services, Laboratory Services
R438-12-2
Authorized Individual - Qualifications

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33087
FILED: 10/22/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment clarifies the intent of the rule that a training course need not be under the guidance of a physician but that the training prepares authorized individuals to function in routine clinical or emergency medical situation under the guidance of a physician.

SUMMARY OF THE RULE OR CHANGE: At Subsection R438-12-2(2), the phrase "under the guidance of a physician" will be eliminated. The State Motor Vehicle Code citation is changed to Subsection 41-6a-523. This change also shortens the rule title to "Rule for Law Enforcement Blood Draws".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-6a-523 and Subsection 26-1-30(2)(2)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There will be no impact on the state budget. This amendment does not change the state's responsibilities or workload in permitting individuals to withdraw blood for alcoholic or drug determinations when requested by a peace officer.
♦ LOCAL GOVERNMENTS: There should be no impact on the local government budget. This amendment does not change the requirements for permitting individuals to withdraw blood for alcoholic or drug determinations when requested by a peace officer.
♦ SMALL BUSINESSES: There is no change in cost for the permitting or training.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no change in cost for the permitting or training.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Training is essentially a one-time requirement and applicants will still have three options to qualify. Permitting costs remain the same.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on regulated business is expected by eliminating the requirement for physician guidance.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ David Mendenhall by phone at 801-538-9370, by FAX at 801-538-9373, or by Internet E-mail at davidmendenhall@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: David Sundwall, Executive Director

R438. Health, Epidemiology and Laboratory Services, Laboratory Services.
R438-12. ~~[Rules for the Authorization of Individuals Other Than Physicians, Registered Nurses, or Practical Nurses to Withdraw Blood for Alcoholic or Drug Determinations When Requested by a Peace Officer, and for Issuance of Permits to Such Individuals]~~Rule for Law Enforcement Blood Draws.

R438-12-2. Authorized Individual - Qualifications.
Pursuant to section 26-1-30(2)(s), individuals other than physicians, registered nurses, or practical nurses shall meet one of the following requirements as a prerequisite for authorization to withdraw blood for the purpose of determining its alcoholic or drug content when requested to do so by a peace officer:
(1) training in blood withdrawal procedures obtained as a defined part of a successfully completed college or university course taken for credit, or
(2) training in blood withdrawal procedures obtained as a defined part of a successfully completed training course which prepares individuals to function in routine clinical or emergency medical situations[~~, under the guidance of a physician~~], or
(3) training of no less than three weeks duration in blood withdrawal procedures under the guidance of a licensed physician.

KEY: sobriety tests
Date of Enactment or Last Substantive Amendment: [~~1992~~]2009
Notice of Continuation: May 8, 2007
Authorizing, and Implemented or Interpreted Law: [~~41-6-44.10(5)~~]41-6a-523; 26-1-30(2)(s)

Public Safety, Driver License
R708-6
Renewal By Mail

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 33106
FILED: 10/27/2009

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being eliminated in response to the provisions of S.B. 40 (2009 General Session) which requires all individuals to appear in person, to prove acceptable documentation, to apply for a Utah license certificate, or Utah identification card. (DAR NOTE: S.B. 40 (2009) is found at Chapter 315, Laws of Utah 2009, and will be effective 01/01/2010.)

SUMMARY OF THE RULE OR CHANGE: Effective 01/01/2010, it will be necessary to appear in person to renew your Utah license certificate. All persons will be required to provide acceptable documentation. There will be no need for the renewal by mail program for the five-year rotation period. Therefore, this rule is repealed in its entirety.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-3-214

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The fee for in-person appearance to renew is $5 higher than renewing by mail, thus the state will see some increase in revenue during that five-year period.
♦ LOCAL GOVERNMENTS: Local governments are not involved in providing licenses.
♦ SMALL BUSINESSES: Small businesses are not involved in providing licenses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The fee to renew in an office is $5 higher than renewing by mail. This process is necessary to allow them the ability to provide the necessary documentation. These persons will see an increase during the five-year period.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The fee to renew in an office is $5 higher than renewing by mail. This process is necessary to allow them the ability to provide the necessary documentation. These persons will see an increase during the five-year period.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
DRIVER LICENSE
CALVIN L RAMPTON COMPLEX
4501 S 2700 W 3RD FL
SALT LAKE CITY, UT 84119-5595
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov
INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: Nannette Rolfe , Director

R708. Public Safety, Driver License.
[~~R708-6. Renewal By Mail.~~
~~R708-6-1. Purpose.~~
~~Effective October 1, 1991, the Utah Driver License Division will conduct a license Renewal-By-Mail Program.~~

~~R708-6-2. Authority.~~
~~This rule is authorized by Section 53-3-214.~~

~~R708-6-3. Provisions.~~
~~(1) Drivers eligible for the license Renewal-By-Mail program may not have more than four traffic violations or any reckless driving convictions on their driving record during the five years prior to the date of expiration.~~
~~(a) During the same five year period, the driver's record may not contain suspension(s), revocation(s), or medical impairment which may represent a hazard to public safety.~~
~~(2) Drivers that have changed their name or do not have the appropriate restrictions as per (Section 53-3-208) on their present driver's license are not eligible to renew through the mail.~~
~~(3) The Driver License Division will contact eligible drivers by mail approximately 90 days prior to the expiration of their driver licenses.~~
~~(a) Drivers will be mailed an application form, medical questionnaire, and general instructions.~~
~~(b) Drivers renewing 6 months prior to their 65th birthday, or who are currently over 65 years old, must furnish a current Eye Examination Form or have an eye exam at a Driver License Examining Office before renewing through the mail.~~
~~(c) Drivers will mail in the completed application and appropriate fee to the Driver License Division, after which the division will mail out a renewal sticker to be placed on the back of the driver's present license.~~
~~(4) A driver whose current license has been renewed by mail, may not renew by mail in the following renewal cycle. Drivers may renew by mail only once in a ten year period.~~
~~(5) Drivers whose driving record would allow them to renew by mail but whose current license was previously renewed through the mail, will be sent a notification that must be taken to a Driver License Examination Office to complete the renewal process.~~
~~(6) It is the responsibility of drivers to insure that their present licenses are renewed before expiration. If a Renewal-By-Mail application is received after the expiration of a license, it will be returned to the applicant and they will be required to appear at a Driver License Examination Office.~~
~~(7) Commercial drivers under the "Commercial Driver License Act" do not qualify for the Renewal-by-Mail program as per Subsection 53-3-214(3)(b).~~

~~KEY: driver licenses~~
~~Date of Enactment or Last Substantive Amendment: 1992~~
~~Notice of Continuation: March 23, 2006~~
~~Authorizing, and Implemented or Interpreted Law: 53-3-214~~]

Public Safety, Driver License
R708-45
Exception for Renewal or Duplicate License for a Utah Resident Temporarily Residing Out of State

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 33110

FILED: 10/29/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to outline under what circumstances the Utah Driver License Division may issue a renewal or a duplicate to a current Utah Driver License holder who is temporarily out of the state and is unable to appear at an examining office to obtain another license.

SUMMARY OF THE RULE OR CHANGE: This rule is being established in response to S. B. 40 (2009 General Session) which deleted language that allowed the division to issue a renewal or duplicate license without a photo to an applicant not living in the state. This rule will outline the process for the division to issue a renewal or duplicate license to an individual who is a Utah resident but temporarily residing out of state providing the applicant has a digitized photo on file. (DAR NOTE: S.B. 40 (2009) is found at Chapter 315, Laws of Utah 2009, and will be effective 01/01/2010.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-3-104 and Section 53-3-205

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There are no anticipated cost or savings to the state because this rule will only slightly modify the current process.
♦ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government because local governments are not involved in providing Utah driver licenses or identification cards.
♦ SMALL BUSINESSES: There are no anticipated cost or savings to small businesses because small businesses are not involved in providing Utah driver licenses or identification cards.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no impact to other persons because the current process allowed under existing state law will be modified slightly and continue under the provisions of this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Individuals who apply for a renewal or duplicate license will be required to pay the appropriate license fee as established in Section 53-3-105.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see not fiscal impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PUBLIC SAFETY
DRIVER LICENSE
CALVIN L RAMPTON COMPLEX
4501 S 2700 W 3RD FL
SALT LAKE CITY, UT 84119-5595
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: Nannette Rolfe , Director

R708. Public Safety, Driver License.
R708-45. Exception for Renewal or Duplicate License for a Utah Resident Temporarily Residing Out of State.
R708-45-1. Purpose.
Effective January 1, 2010, the Utah Driver License Division will issue a renewal or a duplicate regular license certificate through the mail under the provisions of this rule to an individual who is a Utah resident that is temporarily residing outside of the state.

R708-45-2. Authority.
This rule is authorized by Section 53-3-104 and 53-3-205.

R708-45-3. Definitions.
(1) "Driving Privilege Card" means the evidence of the privilege granted and issued under Chapter 53-3 to drive a motor vehicle to a person whose privilege was obtained without providing evidence of lawful presence in the United States.
(2) "Limited-Term License Certificate" means the evidence of the privilege granted and issued under Chapter 53-3 to drive a motor vehicle to a person whose privilege was obtained providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(B).
(3) "Regular Driver License Certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle whose privilege was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(A).

R708-45-4. Provisions.
(1) A valid Regular License Certificate holder with a digitized driver license photo on file with the division who is a resident of the state of Utah and is temporarily residing outside the state of Utah may apply for a renewal or a duplicate of their driver license under the provisions of this rule.
(a) Upon request and verification of eligibility, a driver will be mailed an application form, a Certificate of Visual Examination, a medical questionnaire, and general instructions for completion of the renewal or duplicate license process.
(b) During the five year period prior to the application request date, the driver's record may not contain evidence which may represent a hazard to public safety.
(c) Drivers will be required to comply with verification of

identity, verification of legal presence, social security number verification, and Utah residency verification requirements pursuant to Section 53-3-205 in order to complete the license application process.

(d) Drivers who are 64 years and 6 months old or older, or who have answered "yes" to the vision question under category "I" on the medical questionnaire, must furnish a current Certificate of Visual Examination form before renewing under the provisions of this rule.

(e) Drivers will mail in the completed application; required identity, legal presence, social security number and Utah residence address documents; and appropriate fees to the Driver License Division, after which the division will mail out a renewal or duplicate license certificate.

(2) Drivers that have changed their name or do not have the appropriate restrictions under Section 53-3-208 on their present driver's license are not eligible to obtain a renewal or a duplicate of their driver license under the provisions of this rule.

(3) A driver whose current license has been issued under the provisions of this rule may only renew by mail or receive another duplicate through the mail in the following renewal cycle if approved by the division director or designee. Drivers may renew under the provisions of this rule only once in a ten year period unless approved by the division director or designee.

(4) In the event that the driver license has already expired at the time the driver license application is submitted through the mail, the application for renewal will not be processed unless it is received within six months from the current expiration date.

(5) If the applicant is ordered to active duty and stationed outside Utah in any of the armed forces of the United States, and the driver license is valid until 90 days after the person has been discharged or has left the service, the division may issue a renewal or duplicate license under the provisions of this rule;

(a) unless the license has been suspended, disqualified, denied, revoked or cancelled by the division;

(b) upon receipt of supporting documentation or verification that establishes that the individual is ordered to active duty in addition to the requirements as outlined in subsection (1).

(c) the renewal license certificate will reflect an updated expiration date, however, the license will remain in effect until 90 days after the person has been discharged or has left the service.

(7) Commercial drivers under the "Commercial Driver License Act", Limited-Term License holders and Driving Privilege Card holders do not qualify to obtain a duplicate or renew under the provisions of this rule.

KEY: driver license
Date of Enactment or Last Substantive Amendment: 2009
Authorizing, Implemented, or Interpreted Law: 53-3-104; 53-3-205

Tax Commission, Auditing
R865-9I-17

Time for Withholding Tax Returns and Payment of Withholding Taxes Pursuant to Utah Code Ann. Sections 59-10-406 and 59-10-407

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 33113
FILED: 10/29/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment updates the rule to be in compliance with H.B. 71 from the 2009 General Session, and modifies which employers may file an annual withholding tax return with the commission. (DAR NOTE: H.B. 71 (2009) is found at Chapter 33, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: The amendment provides, in accordance with H.B. 71, that required payments made on a monthly basis are prepayments of the quarterly return; modifies the criteria for employers to file an annual withholding return with the commission so that the employers who file annual federal withholding returns will file annual state withholding returns.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-10-406 and Section 59-10-407

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: None--There is a small potential that an employer that was able to file annually under the old section will no longer be able to under the new section.
♦ LOCAL GOVERNMENTS: None--State income taxes do not impact local governments.
♦ SMALL BUSINESSES: None--There is a small potential that an employer that was able to file annually under the old section will no longer be able to under the new section.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--These businesses did not qualify to file annually before the amendment and do not qualify after the amendment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--There may be a small number of employers who will no longer be able to file state withholding on an annual basis, but would be required to file quarterly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is the potential that some businesses that were able to file withholding annually under the old section, will need to file withholding quarterly under the new section.

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

TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Pam Hendrickson by phone at 801-297-3907, by FAX at 801-297-3901, or by Internet E-mail at pamh@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: Pam Hendrickson, Commission Chair

R865. Tax Commission, Auditing.
R865-9I. Income Tax.
R865-9I-17. Time for Filing Withholding Tax Returns and Payment of Withholding Taxes Pursuant to Utah Code Ann. Sections 59-10-406 and 59-10-407.

[~~A.~~](1) This rule provides exceptions to the statutory requirement that an employer shall file withholding tax returns and pay withholding taxes quarterly.

[~~B.~~](2) An employer may [~~elect to~~]file withholding tax returns and pay withholding taxes on an annual basis for a calendar year in which the employer files:

[~~1.~~](a) [~~files~~]a federal Schedule H; or

[~~2. withholds less than $1,000~~](b) a Form 944, Employer's ANNUAL Federal Tax Return, with the Internal Revenue Service.

[~~C.~~](3) The annual withholding return and payment under [~~B.~~]Subsection (2) are due by January 31 of the year succeeding the year for which the payment and return apply.

[~~D.~~](4) An employer withholding an average of $1,000 or more per month shall [~~file withholding tax returns and pay~~]prepay withholding taxes on a monthly basis[~~.~~

~~E. The monthly withholding return and payment under D. are due as~~] in the manner prescribed in Section 59-10-407.

KEY: historic preservation, income tax, tax returns, enterprise zones
Date of Enactment or Last Substantive Amendment: [~~August 18, 2008~~]2009
Notice of Continuation: March 20, 2007
Authorizing, and Implemented or Interpreted Law: 59-10-406 through 59-10-408

Tax Commission, Motor Vehicle
R873-22M-27
Issuance of Special Group License Plates Pursuant to to Utah Code Ann. Sections 41-1a-418, 41-1a-419, 41-1a-420, and 41-1a-21

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33111
FILED: 10/29/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 41-1a-419 authorizes the commission to determine the number of characters or numerals on special group license plates. As the Division of Motor Vehicle was running out of letter/number combinations in the old format, a new format was needed.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment provides the new numbering scheme for special group license plates, other than personalized special group license plates.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-1a-418 and Section 41-1a-419 and Section 41-1a-420 and Section 41-1a-421

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: None--The change directs Utah Correctional Industries to change the letter and number sequencing as they produce the plates. The change that Utah Correctional Industries makes will be determined by the commission.
♦ LOCAL GOVERNMENTS: None--The change directs Utah Correctional Industries to change the letter and number sequencing as they produce the plates. The change that Utah Correctional Industries makes will be determined by the commission.
♦ SMALL BUSINESSES: None--The change directs Utah Correctional Industries to change the letter and number sequencing as they produce the plates. The change that Utah Correctional Industries makes will be determined by the commission.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--The change directs Utah Correctional Industries to change the letter and number sequencing as they produce the plates. The change that Utah Correctional Industries makes will be determined by the commission.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--These are standard issue special group license plates. The only costs are statutory costs to purchase certain of these plates. These statutory costs remain unchanged.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
MOTOR VEHICLE
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Pam Hendrickson by phone at 801-297-3907, by FAX at 801-297-3901, or by Internet E-mail at pamh@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: Pam Hendrickson, Commission Chair

R873. Tax Commission, Motor Vehicle.
R873-22M. Motor Vehicle.
R873-22M-27. Issuance of Special Group License Plates Pursuant to Utah Code Ann. Sections 41-1a-418, 41-1a-419, 41-1a-420, and 41-1a-421.

(1) Except as otherwise provided, a special group license plate shall consist of a symbol affixed to the left-hand side of the plate, followed by a total of five characters and numerals.[~~The first four characters shall be numbers and the fifth shall be a letter.~~]

(2)(a) Legislature special group license plates shall carry the letter combination SEN or REP with the number of the district from which the legislator was elected or appointed.

(b) A state legislator may register a maximum of two vehicles with Legislature special group license plates.

(c) Upon leaving office, a legislator may not display the Legislature special group license plates on any motor vehicle. Legislators not reelected to office may not display the Legislature special group license plates after December 31 of the election year.

(3)(a) United States Congress special group license plates shall carry, in the case of representatives, the letter combination HR, followed by the number of the district from which the representative was elected or appointed, or, in the case of senators, USS 1 or USS 2, signifying the senior and junior senators.

(b) Upon leaving office, a member of Congress may not display United States Congress special group license plates on any motor vehicle. A member of Congress not reelected to office may not display United States Congress special group license plates after December 31 of the election year.

(4) Survivor of the Japanese attack on Pearl Harbor special group license plates may be issued to qualified U.S. military veterans who:

(a) provide a copy of their discharge papers, notice of separation, or other government issued document acceptable to the division verifying dates and locations of active service; or

(b) present evidence of membership in the Pearl Harbor Survivors Association.

(5) Former prisoner of war special group license plates shall be issued to qualified U.S. military veterans who provide a copy of their discharge papers, notice of separation, or other government issued document acceptable to the division indicating that the veteran was classified as a prisoner of war.

(6) Recipient of a purple heart special group license plates shall be issued to qualified U.S. military veterans who:

(a) provide a copy of their discharge papers, notice of separation, or other government issued document acceptable to the division indicating the veteran was awarded the purple heart; or

(b) present evidence of current membership in the Military Order of the Purple Heart.

(7) An applicant for a National Guard special group license plate must present a current military identification card that shows active membership in the Utah National Guard.

(8) The issuance, renewal, surrender, and design of disability special group license plates and windshield placards shall be subject to the provisions of the federal Uniform System for Parking for Persons with Disabilities, 23 C.F.R. Ch. 11, Subch. B, Pt. 1235.2 (1991), which is adopted and incorporated by reference.

(9)(a) An applicant for a licensed amateur radio operator special group license
plate shall present a current Federal Communication Commission (FCC) license.

(b) The license plate number for a licensed amateur radio operator special group license plate shall be the same combination of alpha and numeric characters that comprise the FCC assigned radio call letters of the licensed operator.

(c) Only one set of licensed amateur radio operator special group license plates may be issued per FCC license.

(10) A farm truck special group license plate may be issued for a vehicle that is qualified to register as a farm truck under Section 41-1a-1206.

(11)(a) To qualify for a firefighter special group license plate, an applicant must present one of the following:

(i) evidence indicating the applicant has a current membership in the Utah Firefighters' Association;

(ii) an official identification card issued by the firefighting entity identifying the applicant as an employee or volunteer of that firefighting entity;

(iii) a letter on letterhead of the firefighting entity, or the municipality or county in which the firefighting entity is located, identifying the applicant as an employee or volunteer of that firefighting entity; or

(iv) a letter on letterhead from a firefighting entity, or the municipality or county in which the firefighting entity is located, identifying the applicant as a retired firefighter, whether employed or volunteer, of that firefighting entity.

(b) The division shall revoke a firefighter special group license plate issued under Section 41-1a-418 upon receipt of written notification from the head of a firefighting entity indicating:

(i) the name of the individual whose license plate is revoked;

(ii) the license plate number that is revoked;

(iii) the reason the license plate is revoked; and

(iv) that the firefighting entity has notified the individual described in Subsection (11)(b)(i) that the license plate will be revoked.

(12) An individual who no longer qualifies for the particular special group license plate may not display that special

group license plate on any motor vehicle and must reregister the vehicle and obtain new license plates.

KEY: taxation, motor vehicles, aircraft, license plates
Date of Enactment or Last Substantive Amendment: [~~January 1~~], 2009
Notice of Continuation: March 12, 2007
Authorizing, and Implemented or Interpreted Law: 41-1a-418; 41-1a-419; 41-1a-420; 41-1a-421

Tax Commission, Property Tax
R884-24P-53
2009 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33128
FILED: 11/02/2009
RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment annually updates the agricultural productive values to be applied by county assessors to land qualifying for valuation and assessment under the Farmland Assessment Act. The values are recommended to the Commission by the State Farmland Evaluation Advisory Committee, which meets under the authority of Section 59-2-514.

SUMMARY OF THE RULE OR CHANGE: Section 59-2-515 authorizes the State Tax Commission to promulgate rules regarding the Property Tax Act, Part 5, "Farmland Assessment Act". Section 59-2-514 authorizes the State Tax Commission to receive valuation recommendations from the State Farmland Advisory Committee for implementation as outlined in Section R884-24P-53.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-515
ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The amount of savings or cost to state government is undetermined. The state receives tax revenue for assessing and collecting and for the Uniform School Fund based on increased or decreased real and personal property valuation, including property assessed under the Farmland Assessment Act (greenbelt). Property valuation (taxable value) changes have been recommended by class and by county. This year, 133 class/county valuations will increase, 58 will decrease and 146 will remain unchanged. No total cost or savings could be calculated without an exhaustive study of farmland acreage in each county by class, a listing of property newly-qualified for FAA assessment during 2010, and a listing of property no longer qualifying which is removed from greenbelt during 2009. However, it is estimated that the overall change is minimal due to this amendment.
♦ LOCAL GOVERNMENTS: The amount of savings or cost to local government is undetermined. Local governmental entities receive tax revenue based on increased or decreased property valuation, including property on greenbelt. Property valuation changes have been recommended by class and by county. This year, 133 class/county valuations will increase, 58 will decrease and 146 will remain unchanged. No total cost or savings could be calculated without an exhaustive study of farmland acreage in each county by class, a listing of property newly-qualified for greenbelt during 2010, and a listing of property no longer qualifying which is removed from greenbelt during 2009. However, it is estimated that the overall change is minimal due to this amendment. County assessor offices statewide will be required to input the new value indicators into their computer systems to be applied against the acreage for individual properties. This input process is easily accomplished on an annual basis and represents no significant cost in time or money to the assessors' offices.
♦ SMALL BUSINESSES: Each property owner with property eligible for assessment under the Farmland Assessment Act may see a change in value, depending on property class and situs county as 133 such value indicators will increase, 58 will decrease and 146 will not change. The effect on the property owner will be valuation increase, decrease or no change depending on the mix of property types and situs. No aggregate compliance cost can be determined without an exhaustive study of farmland acreage in each county by class, a listing of property newly-qualified for greenbelt during 2010, and a listing of property no longer qualifying which is removed from greenbelt during 2009. In addition, the compliance cost will further be altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Each property owner with property eligible for assessment under the Farmland Assessment Act may see a change in value, depending on property class and situs county as 133 such value indicators will increase, 58 will decrease and 146 will not change. The effect on the property owner will be valuation increase, decrease or no change depending on the mix of property types and situs. No aggregate compliance cost can be determined without an exhaustive study of farmland acreage in each county by class, a listing of property newly-qualified for greenbelt during 2010, and a listing of property no longer qualifying which is removed from greenbelt during 2009. In addition, the compliance cost will further be altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Each property owner with property eligible for assessment under the Farmland Assessment Act may see a change in value, depending on property class and situs county as 133 such value indicators will increase, 58 will decrease and 146 will not change. The effect on the property owner will be valuation increase, decrease or no change depending on the mix of property types and situs. No aggregate compliance cost can be determined without an exhaustive study of farmland acreage in each county by class, a listing of property newly-qualified for greenbelt during 2010, and a listing of property no longer qualifying which is removed from greenbelt during 2009. In addition, the compliance cost will further be altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The effect on businesses as a property owner will be a valuation increase, decrease or no change. No aggregate fiscal impact can be determined without an exhaustive study; however, it is estimated that the overall change due to this amendment is minimal.

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

TAX COMMISSION
PROPERTY TAX
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Pam Hendrickson by phone at 801-297-3907, by FAX at 801-297-3901, or by Internet E-mail at pamh@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: Pam Hendrickson, Commission Chair

R884. Tax Commission, Property Tax.
R884-24P. Property Tax.
R884-24P-53. [~~2009~~]2010 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515.

(1) Each year the Property Tax Division shall update and publish schedules to determine the taxable value for land subject to the Farmland Assessment Act on a per acre basis.

(a) The schedules shall be based on the productivity of the various types of agricultural land as determined through crop budgets and net rents.

(b) Proposed schedules shall be transmitted by the Property Tax Division to county assessors for comment before adoption.

(c) County assessors may not deviate from the schedules.

(d) Not all types of agricultural land exist in every county. If no taxable value is shown for a particular county in one of the tables, that classification of agricultural land does not exist in that county.

(2) All property defined as farmland pursuant to Section 59-2-501 shall be assessed on a per acre basis as follows:

(a) Irrigated farmland shall be assessed under the following classifications.

(i) Irrigated I. The following counties shall assess Irrigated I property based upon the per acre values listed below:

TABLE 1
Irrigated I

1)	Box Elder	[~~820~~]835
2)	Cache	[~~710~~]725
3)	Carbon	[~~530~~]540
4)	Davis	[~~860~~]875
5)	Emery	[~~510~~]520
6)	Iron	[~~820~~]835
7)	Kane	[~~430~~]435
8)	Millard	[~~810~~]825
9)	Salt Lake	[~~715~~]725
10)	Utah	[~~750~~]765
11)	Washington	[~~670~~]685
12)	Weber	[~~815~~]830

(ii) Irrigated II. The following counties shall assess Irrigated II property based upon the per acre values listed below:

TABLE 2
Irrigated II

1)	Box Elder	[~~720~~]735
2)	Cache	[~~610~~]620
3)	Carbon	430
4)	Davis	[~~760~~]770
5)	Duchesne	[~~495~~]505
6)	Emery	[~~410~~]420
7)	Grand	[~~400~~]405
8)	Iron	[~~720~~]735
9)	Juab	[~~450~~]455
10)	Kane	[~~330~~]335
11)	Millard	[~~710~~]725
12)	Salt Lake	[~~615~~]625
13)	Sanpete	[~~550~~]560
14)	Sevier	[~~575~~]585
15)	Summit	[~~475~~]485
16)	Tooele	[~~460~~]470
17)	Utah	[~~650~~]665
18)	Wasatch	[~~500~~]510
19)	Washington	[~~570~~]585
20)	Weber	[~~715~~]730

(iii) Irrigated III. The following counties shall assess Irrigated III property based upon the per acre values listed below:

TABLE 3
Irrigated III

1)	Beaver	[~~580~~]595
2)	Box Elder	[~~570~~]580
3)	Cache	[~~460~~]470
4)	Carbon	[~~280~~]285
5)	Davis	[~~610~~]620

6)	Duchesne	[~~345~~]355
7)	Emery	[~~260~~]265
8)	Garfield	[~~215~~]220
9)	Grand	[~~250~~]255
10)	Iron	[~~570~~]585
11)	Juab	[~~300~~]305
12)	Kane	[~~180~~]185
13)	Millard	[~~560~~]575
14)	Morgan	[~~395~~]405
15)	Piute	[~~340~~]350
16)	Rich	[~~180~~]185
17)	Salt Lake	[~~465~~]475
18)	San Juan	[~~175~~]180
19)	Sanpete	[~~400~~]410
20)	Sevier	[~~425~~]435
21)	Summit	[~~325~~]330
22)	Tooele	[~~310~~]315
23)	Uintah	[~~375~~]385
24)	Utah	[~~500~~]510
25)	Wasatch	[~~350~~]355
26)	Washington	[~~420~~]430
27)	Wayne	[~~340~~]345
28)	Weber	[~~565~~]580

(iv) Irrigated IV. The following counties shall assess Irrigated IV property based upon the per acre values listed below:

TABLE 4
Irrigated IV

1)	Beaver	[~~480~~]490
2)	Box Elder	[~~470~~]480
3)	Cache	[~~360~~]365
4)	Carbon	[~~180~~]185
5)	Daggett	[~~200~~]205
6)	Davis	[~~510~~]520
7)	Duchesne	[~~245~~]250
8)	Emery	[~~160~~]165
9)	Garfield	[~~115~~]120
10)	Grand	[~~150~~]155
11)	Iron	[~~470~~]480
12)	Juab	[~~200~~]205
13)	Kane	[~~80~~]85
14)	Millard	[~~460~~]470
15)	Morgan	[~~295~~]300
16)	Piute	[~~240~~]245
17)	Rich	[~~80~~]85
18)	Salt Lake	[~~365~~]370
19)	San Juan	[~~75~~]80
20)	Sanpete	[~~300~~]310
21)	Sevier	[~~325~~]335
22)	Summit	[~~225~~]230
23)	Tooele	[~~210~~]215
24)	Uintah	[~~275~~]285
25)	Utah	[~~400~~]410
26)	Wasatch	[~~250~~]255
27)	Washington	[~~320~~]325
28)	Wayne	[~~240~~]245
29)	Weber	[~~465~~]475

(b) Fruit orchards shall be assessed per acre based upon the following schedule:

TABLE 5
Fruit Orchards

1)	Beaver	620
2)	Box Elder	[~~675~~]670
3)	Cache	620
4)	Carbon	620
5)	Davis	675
6)	Duchesne	620
7)	Emery	620
8)	Garfield	620
9)	Grand	620
10)	Iron	620
11)	Juab	620
12)	Kane	620
13)	Millard	620
14)	Morgan	620
15)	Piute	620
16)	Salt Lake	620
17)	San Juan	620
18)	Sanpete	620
19)	Sevier	620
20)	Summit	620
21)	Tooele	620
22)	Uintah	620
23)	Utah	[~~690~~]680
24)	Wasatch	620
25)	Washington	740
26)	Wayne	620
27)	Weber	[~~675~~]670

(c) Meadow IV property shall be assessed per acre based upon the following schedule:

TABLE 6
Meadow IV

1)	Beaver	245
2)	Box Elder	260
3)	Cache	270
4)	Carbon	130
5)	Daggett	160
6)	Davis	270
7)	Duchesne	165
8)	Emery	140
9)	Garfield	105
10)	Grand	135
11)	Iron	[~~260~~]262
12)	Juab	150
13)	Kane	110
14)	Millard	195
15)	Morgan	[~~195~~]197
16)	Piute	[~~190~~]192
17)	Rich	[~~105~~]107
18)	Salt Lake	225
19)	Sanpete	195
20)	Sevier	200
21)	Summit	205
22)	Tooele	[~~185~~]187
23)	Uintah	[~~205~~]207
24)	Utah	250
25)	Wasatch	210
26)	Washington	230
27)	Wayne	175
28)	Weber	305

(d) Dry land shall be classified as one of the following two categories and shall be assessed on a per acre basis as follows:

(i) Dry III. The following counties shall assess Dry III property based upon the per acre values listed below:

TABLE 7
Dry III

1)	Beaver	[~~50~~]52
2)	Box Elder	[~~95~~]96
3)	Cache	[~~120~~]122
4)	Carbon	[~~50~~]52
5)	Davis	50
6)	Duchesne	[~~55~~]57
7)	Garfield	[~~50~~]52
8)	Grand	[~~50~~]52

9)	Iron	[~~50~~]52
10)	Juab	[~~50~~]52
11)	Kane	[~~50~~]52
12)	Millard	50
13)	Morgan	[~~65~~]67
14)	Rich	[~~50~~]52
15)	Salt Lake	[~~50~~]52
16)	San Juan	[~~50~~]53
17)	Sanpete	[~~55~~]57
18)	Summit	[~~50~~]52
19)	Tooele	[~~50~~]52
20)	Uintah	[~~55~~]57
21)	Utah	[~~50~~]52
22)	Wasatch	[~~50~~]52
23)	Washington	50
24)	Weber	80

(ii) Dry IV. The following counties shall assess Dry IV property based upon the per acre values listed below:

TABLE 8
Dry IV

1)	Beaver	[~~15~~]16
2)	Box Elder	60
3)	Cache	[~~85~~]86
4)	Carbon	[~~15~~]16
5)	Davis	15
6)	Duchesne	[~~20~~]21
7)	Garfield	[~~15~~]16
8)	Grand	[~~15~~]16
9)	Iron	[~~15~~]16
10)	Juab	[~~15~~]16
11)	Kane	[~~15~~]16
12)	Millard	15
13)	Morgan	[~~30~~]31
14)	Rich	[~~15~~]16
15)	Salt Lake	[~~15~~]16
16)	San Juan	[~~15~~]17
17)	Sanpete	[~~20~~]21
18)	Summit	[~~15~~]16
19)	Tooele	[~~15~~]16
20)	Uintah	[~~20~~]21
21)	Utah	[~~15~~]16
22)	Wasatch	[~~15~~]16
23)	Washington	15
24)	Weber	45

(e) Grazing land shall be classified as one of the following four categories and shall be assessed on a per acre basis as follows:

(i) Graze 1. The following counties shall assess Graze I property based upon the per acre values listed below:

TABLE 9
GR I

1)	Beaver	75
2)	Box Elder	[~~80~~]76
3)	Cache	[~~76~~]72
4)	Carbon	[~~56~~]52
5)	Daggett	[~~60~~]56
6)	Davis	[~~66~~]62
7)	Duchesne	71
8)	Emery	[~~78~~]74
9)	Garfield	[~~83~~]79
10)	Grand	[~~84~~]80
11)	Iron	75
12)	Juab	[~~70~~]66
13)	Kane	[~~81~~]77
14)	Millard	[~~83~~]79
15)	Morgan	68
16)	Piute	[~~97~~]93
17)	Rich	[~~71~~]67
18)	Salt Lake	[~~72~~]68
19)	San Juan	73
20)	Sanpete	[~~69~~]65
21)	Sevier	[~~70~~]66
22)	Summit	[~~78~~]74
23)	Tooele	[~~77~~]73
24)	Uintah	[~~84~~]80
25)	Utah	65
26)	Wasatch	[~~58~~]54
27)	Washington	[~~72~~]68
28)	Wayne	[~~95~~]91
29)	Weber	[~~74~~]70

(ii) Graze II. The following counties shall assess Graze II property based upon the per acre values listed below:

TABLE 10
GR II

1)	Beaver	25
2)	Box Elder	[~~27~~]25
3)	Cache	[~~25~~]23
4)	Carbon	[~~18~~]16
5)	Daggett	[~~18~~]16
6)	Davis	[~~22~~]20
7)	Duchesne	24
8)	Emery	[~~25~~]23
9)	Garfield	[~~27~~]25
10)	Grand	[~~26~~]24
11)	Iron	24
12)	Juab	[~~22~~]20
13)	Kane	[~~28~~]26
14)	Millard	[~~28~~]26
15)	Morgan	22
16)	Piute	[~~31~~]29
17)	Rich	[~~24~~]22
18)	Salt Lake	[~~24~~]22
19)	San Juan	24
20)	Sanpete	[~~23~~]21
21)	Sevier	[~~23~~]21
22)	Summit	[~~25~~]23
23)	Tooele	[~~25~~]23
24)	Uintah	[~~28~~]26
25)	Utah	23
26)	Wasatch	[~~20~~]18
27)	Washington	[~~25~~]23
28)	Wayne	[~~32~~]30
29)	Weber	[~~23~~]21

(iii) Graze III. The following counties shall assess Graze III property based upon the per acre values below:

TABLE 11
GR III

1)	Beaver	17
2)	Box Elder	18
3)	Cache	16
4)	Carbon	13
5)	Daggett	13
6)	Davis	14
7)	Duchesne	15
8)	Emery	16
9)	Garfield	18
10)	Grand	17
11)	Iron	17
12)	Juab	15
13)	Kane	17

14)	Millard	18
15)	Morgan	14
16)	Piute	20
17)	Rich	15
18)	Salt Lake	15
19)	San Juan	16
20)	Sanpete	15
21)	Sevier	15
22)	Summit	16
23)	Tooele	15
24)	Uintah	18
25)	Utah	14
26)	Wasatch	13
27)	Washington	15
28)	Wayne	20
29)	Weber	15

(iv) Graze IV. The following counties shall assess Graze IV property based upon the per acre values listed below:

TABLE 12
GR IV

1)	Beaver	6
2)	Box Elder	5
3)	Cache	5
4)	Carbon	5
5)	Daggett	5
6)	Davis	5
7)	Duchesne	5
8)	Emery	6
9)	Garfield	5
10)	Grand	6
11)	Iron	6
12)	Juab	5
13)	Kane	5
14)	Millard	5
15)	Morgan	6
16)	Piute	6
17)	Rich	5
18)	Salt Lake	5
19)	San Juan	5
20)	Sanpete	5
21)	Sevier	5
22)	Summit	5
23)	Tooele	5
24)	Uintah	6
25)	Utah	5
26)	Wasatch	5
27)	Washington	5
28)	Wayne	5
29)	Weber	6

(f) Land classified as nonproductive shall be assessed as follows on a per acre basis:

TABLE 13
Nonproductive Land

Nonproductive Land		
1)	All Counties	5

KEY: taxation, personal property, property tax, appraisals
Date of Enactment or Last Substantive Amendment: [~~March 3~~], 2009
Notice of Continuation: March 12, 2007
Authorizing, and Implemented or Interpreted Law: 59-2-515

Technology Services, Administration
R895-10
Standards, Best Practices, and Institutional Knowledge Requirements for Executive Branch Agencies

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 33104
FILED: 10/27/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The IT Council and its responsibilities and authority as defined in Rule R895-10 represents a duplication of duties of other councils formed in the agency, such as the Architecture Review Board and the IT Product Council. It was determined by the Department of Technology Services (DTS) that there is no need for the IT Council, as other councils meet the IT needs of the agencies as defined in Rule R895-10.

SUMMARY OF THE RULE OR CHANGE: DTS will repeal Rule R895-10 in its entirety due to a duplication of efforts of the IT Council and other councils formed by DTS.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63F-1-206

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or savings to the state, as other councils will continue to meet the IT needs of the agencies.
♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government, as other councils will continue to meet the IT needs of the agencies.
♦ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses, as other councils will continue to meet the IT needs of the agencies.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to other persons, as other councils will continue to meet the IT needs of the agencies.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The repeal will not have any affect, as responsibilities are currently being duplicated.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The repeal of this rule will not result in a fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TECHNOLOGY SERVICES
ADMINISTRATION
ROOM 6000 STATE OFFICE BUILDING
450 N STATE ST
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Stephanie Weiss by phone at 801-538-3284, by FAX at 801-538-3622, or by Internet E-mail at stweiss@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: J Stephen Fletcher , CIO and Executive Director

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R895. Technology Services, Administration.

[R895-10. Standards, Best Practices, and Institutional Knowledge Requirements for Executive Branch Agencies.

R895-10-1. Purpose.

The purpose of this rule is to:

(a) Implement the best public policies, standards, best practices, and retention of institutional knowledge within agencies of the State of Utah in the field of information technology by each state entity/organization, and

(b) To enhance the ability of state Executive Branch Agencies to complete each project at lower costs, improved quality, reduced risk, improved security, and in a more timely manner while maximizing uniformity throughout state government.

R895-10-2. Authority.

This rule is issued by the Chief Information Officer under the authority of Section 63F-1-206 of the Technology Governance Act, and Section 63-46a-3 of the Utah Rulemaking Act, Utah Code Annotated.

R895-10-3. Scope of Application.

(a) All agencies of the executive branch of state government including its administrative sub-units, except the State Board of Education, the Board of Regents, and institutions of higher education, are included within the scope of this rule.

(b) This rule provides requirements for the implementing of standards by state agencies.

R895-10-4. Definitions.

(a) "IT Council" means a group of agency personnel, chaired by the CIO or designee, consisting of IT representatives within Executive Branch Agencies.

(b) "Bid Team" means a group chaired by an Information Technology Council representative, consisting of process and industry experts within Executive Branch Agencies. A bid-team may be formed as needed to review current industry directions, standards, processes, and products. The bid team so formed shall also assist in the development of procurement documents and review vendor proposals for compliance to standards.

(c) "Standards Committee" means a standing committee assigned by the state's IT Council for managing the standards process and reporting standards recommendations.

(d) "Standard" means a policy or procedure to be adhered to by all Executive Branch Agencies.

(e) "Best Practice" means the adoption, as identified and adopted by the IT Council, of standards and procedures which exemplify the most effective or efficient methodology within the IT industry, Government, and the State of Utah.

(f) "Institutional Knowledge" means such policies, best practices, standards, industry product information, and other resources made available to all Executive Branch Agencies for use in decision making and identifying agency implementation options.

R895-10-5. Information Technology (IT) Council -- Responsibilities and Authorities.

An IT Council shall be established and organized under the authority and direction of the Chief Information Officer (CIO), having the following duties and responsibilities:

(a) Develop and maintain IT operational standards and best practices;

(b) Recommend to the State CIO any IT policies, standards, or processes it believes should be considered by the CIO for implementation as administrative rules;

(c) Identify and review any information technology project that has been included within an agency IT Plan, which utilizes data, programs, or platforms that may be shared beneficially, and have common applicability across Executive Branch Agencies;

(d) Implement a database for tracking standards, best practices, and institutional knowledge;

(e) Establish sub-committees or teams when needed, or in response to an agency request, to direct the development of statewide bids and requests for proposals documents, on its own initiative, or in cooperation with "bid-teams";

(f) Establish a standards and best practices committee or team;

(g) Establish other teams or sub-committees as needed to assist the Council in carrying out its duties and responsibilities as defined under this rule.

R895-10-6. Council Membership and Organization.

(a) The CIO or designee shall chair the Council.

(b) The Council shall meet monthly or as determined by the Chair.

(c) The Council shall be composed of the highest ranking IT representatives who have direct operational responsibility for overseeing information technology within their Executive Branch Agency.

R895-10-7. Teams and Committees of the Council.

(a) The Bid or RFP review teams shall:

(i) Be chaired by the requesting agency;

(ii) Consist of agency experts and interested parties in the technology area being reviewed and proposed for bid;

(iii) Remain in force until project objectives have been

~~completed and all additions or changes to standards are approved by the Council;~~

~~(iv) Meet reasonable timeframe requirements of the requesting agency for issuance and review of procurement bids or requests for proposals.~~

~~(b) The standards committee shall have no less than seven, and no more than eleven members.~~

~~(i) The members shall serve one-year terms with an option for re-appointment if approved by the Council;~~

~~(ii) Bid Teams and Committee recommendations shall be submitted to the IT Council by the team/committee chair.~~

~~R895-10-8. Rule Compliance Management.~~

~~(1) A state executive branch agency's executive director, or designee, upon becoming aware of a violation, shall institute measures designed to enforce this rule. The CIO may, where appropriate, monitor compliance and report to an agency's executive director any findings or violations of this rule.~~

~~KEY: IT standards council, IT bid committee, technology best practices, repository~~
~~Date of Enactment or Last Substantive Amendment: November 8, 2004~~
~~Authorizing, and Implemented or Interpreted Law: 63F-1-206; 63-46a-3~~]

Transportation, Motor Carrier
R909-19
Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33131
FILED: 11/02/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to increase the maximum non-consent non-police generated towing rates and the maximum administrative fee that may be charged for entry of towed vehicle data in a government database, as approved by the Motor Carriers Board, and to make various grammatical corrections and stylistic changes.

SUMMARY OF THE RULE OR CHANGE: The amendment would increase the maximum non-consent non-police generated towing rates to match the non-consent police generated towing rates, and increase the maximum administrative fee that may be charged for entry of towed vehicle data in a government database, and make various grammatical corrections and stylistic changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-6a-1404 and Section 41-6a-1405 and Section 41-6a-1406 and Section 53-1-106 and Section 53-8-105 and Section 63J-1-303 and Section 72-9-301 and Section 72-9-303 and Section 72-9-601 and Section 72-9-602 and Section 72-9-603 and Section 72-9-604 and Section 72-9-701 and Section 72-9-702 and Section 72-9-703

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: No cost or savings are anticipated with this rule amendment. No new requirements were created that would impact the state budget.
♦ LOCAL GOVERNMENTS: No cost or savings are anticipated with this rule amendment. No new requirements were created that would impact the local government.
♦ SMALL BUSINESSES: No cost is anticipated with this rule amendment for small business. Small tow truck motor carriers will be able to charge higher tow rates and a higher administrative fee.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Vehicle owners whose vehicles are towed could be subject to a higher tow rate and a higher administrative fee.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No cost is anticipated with this rule amendment for tow truck motor carriers. Vehicle owners whose vehicles are towed could be subject to a higher tow rate and a higher administrative fee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule should have no negative fiscal impact on businesses. Tow truck motor carriers will be able to charge higher tow rates and a higher administrative fee.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TRANSPORTATION
MOTOR CARRIER
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Maureen Short by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at maureenshort@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: John Njord, Executive Director

R909. Transportation, Motor Carrier.
R909-19. Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification.
R909-19-3. Definitions.

(1) "Consent Tow" means any tow truck service that is done at the vehicle, vessel, or outboard motor owner's, or its legal operator, knowledge and/or approval.

(2) "Department" means the Utah Department of Transportation.

(3) "Division" means the Motor Carrier Division.

(4) "Gross Combination Weight Rating (GCWR)" means the value specified by the manufacturer as the loaded weight of a combination (articulated) motor vehicle. In the absence of a value specified by the manufacturer, GVCR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.

(5) "Gross Vehicle Weight Rating (GVWR)" means the value specified by the manufacturer as the loaded weight of a single motor vehicle.

(6) "Non-Consent Police Generated Tow" means tow truck service that was ordered by a peace officer, or a person acting on behalf of a law enforcement agency, or a highway authority, as defined in Section 72-1-102.

(7) "Non-consent Non Police Generated Tow" means towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle from private property. The tow truck service must be from private property, at the request of the property landowner or agent for the landowner.

(8) "Personal Property" means articles associated with a person, such as property having a more or less intimate relation to a person, home or family, including clothing, medicine, tools, [~~home/family~~]etc. Items not considered as personal property are considered to be the original manufactured equipment, and/or attached property to the vehicle, including tires, rims, vehicle-stereos, speakers, or CD changers and will remain in the vehicle.

(9) "Recovery Operation" means a towing service that may require charges in addition to the normal one-truck/one-driver towing service requirements. The additional charges may include charges for manpower, extra equipment, traffic control, and special recovery equipment and supplies.

(10) "Tow Truck" means a motor vehicle constructed, designed, altered, or equipped primarily for the purpose of towing or removing damaged, disabled, abandoned, seized, repossessed or impounded vehicles from highway or other place by means of a crane, hoist, tow bar, tow line, dolly tilt bed, or other similar means of vehicle transfer without its own power or control.

(11) "Tow Truck Certification Program" means a program to authorize and approve tow truck motor carrier owners, operators, and vehicles is the process by which the Department, acting under Section 72-9-602, [~~Utah Code,~~] shall verify compliance with the State and Federal Motor Carriers Safety Regulations.

(12) "Tow Truck Motor Carrier" means any company that provides for-hire, private, salvage, or repossession towing services. It includes the company's agents, officers, and representatives as well as employees responsible for hiring, training, supervisory, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of equipment and/or accessories.

(13) "Tow Truck Service" means the functions and any ancillary operations associated with recovering, removing, and towing a vehicle and its load from a highway or other place by means of a tow truck.

(a) Tow Truck Service, with regards to authorized towing fees, is determined by the type and size of the towed vehicle, not the type and size of the tow truck performing the service.

(b) Towed Vehicle Classifications will be used when determining authorized fees. Information regarding the [~~(~~]GVWR[~~)~~] to determine classification category of towed vehicle can be found on the identification plate on the vehicle driver side doorframe. Towed vehicle classifications are as follows:

[~~(1)~~](i) "Light Duty" means any towed vehicle with a [~~(~~]GVWR[~~)~~] 10,000 pounds or less;

[~~(2)~~](ii) "Medium Duty" means any towed vehicle with a [~~(~~]GVWR[~~)~~] between 10,001 and 26,000 pounds;

[~~(3)~~](iii) "Heavy Duty" means any towed vehicle with a [~~(~~]GVWR[~~)~~] or [~~(~~]GCWR[~~)~~] 26,001 pounds and greater.

(14) "Tow Truck Motor Carrier Steering Committee" means a committee established by the Motor Carrier Division and will include enforcement personnel, industry representatives and other persons as deemed necessary.

R909-19-5. Insurance.

(1) Non-consent police generated tows are required to maintain at least $750,000 of liability insurance[~~—minimum liability~~].

(2) Tow Truck Motor Carriers performing non-consent non-police generated tows and consent tows are required to maintain at least $1,000,000 of liability insurance [~~minimum liability —~~]plus the MCS-90 endorsement for environmental restoration as required in 49 CFR Part 387 - Minimum Levels of Financial Responsibility for Motor Carriers.

(3) Evidence of required insurance will be maintained at the principal place of business and made available to the Department and/or Investigator upon request and prior to the Tow Truck Motor Carrier certification.

R909-19-8. Requirement for Tow Truck Motor Carriers to input required information for Government and Public Notification.

(1) All non-consent police generated and non-consent non-police generated tows conducted by Tow Truck Motor Carriers must input required information in electronic form on the Division of Motor Vehicles Utah State Tax Commission's website, at "https://secure.utah.gov/ivs/ivs" as required by 41-6a-1406(11).

(2) Tow Truck Motor Carriers may charge an administrative fee up to but not exceeding $[~~5~~]30.00 per vehicle notification for reporting non-consent tows to the Department of Motor Vehicles.

R909-19-9. Certification.

There are three (3) [~~required~~]certifications [~~requirements~~]required by the Department[~~:~~].[~~ they are as follows:~~]

(1) Tow Truck Driver Certification:

(a) Effective July 1, 2004 all tow truck drivers will be tested and certified in accordance with National Driver Certification Procedure (NDCP) standards. These standards of conduct and proficiency may be tested and certified through:

(i) Towing and Recovery Association of America (TRAA) Testing Program;

(ii) Wreckmaster Certification Program;

(iii) AAA Certification Program; or

(iv) Other driver testing certification programs [~~may be~~] approved by the Department to meet certification requirements however; the Tow Truck Motor Carrier must obtain prior approval in writing from the Motor Carrier Division Administrator or Division representative by calling (801) 965-4892.

(b) Information on the above mentioned certification programs may be obtained by contacting the Motor Carrier Division at (801) 965-4559.

(c) Tow Truck Motor Carriers shall ensure that all driver[~~'~~]s are:

(i) Properly trained to operate tow truck equipment;

(ii) Licensed, as required under [~~UCA~~]Sections 53-3-101, [~~et al.~~]through 53-3-909 Uniform Driver License Act; and

(iii) Proper[~~t~~]ly certified.

(2) Tow Truck Vehicle Certification:

(a) All tow trucks shall be inspected and certified biannually;

(b) All tow trucks must be equipped with required safety equipment. Safety Equipment List can be found at http://www.udot.utah.gov/index.php/m=c/tid=396 or by calling 801-965-[~~3871~~]4559.

(c) Upon vehicle certification, [~~of vehicle~~]a UDOT safety sticker will be issued and shall be affixed on the driver's side rear window.

(d) Documentation of UDOT tow truck vehicle inspection certification shall be kept in the vehicle file and be available upon request by Department personnel.

(3) Tow Truck Motor Carrier Certification:

(a) Tow Truck Motor Carriers shall be certified biannually to ensure compliance as required by the Federal Motor Carrier Safety Regulations, Utah Code Annotated, and local laws where applicable.

R909-19-11. Information Required on Towing Receipt.

Charges for services provided must be clearly reflected on a company receipt and a copy shall be provided to the customer. The receipt must include the following information:

(a) company name;

(b) address;

(c) phone number;

(d) transportation and storage fees charged;

(e) name of company driver;

(f) unit number;

(g) license plate of the towed vehicle;

(h) make, model, Vehicle Identification Number, and year of the towed [~~unit,~~]vehicle, and;

(i) start and end time for services provided.

R909-19-12. Maximum Towing Rates. Non-Consent Police Generated Tows.

(1) $145 per hour, per unit, when towing a "Light Duty" vehicle;

(a) An additional 15% per hour may be charged if the towed vehicle is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F.

(2) $240 per hour, per unit, when towing a "Medium Duty" vehicle;

(a) An additional 15% per hour may be charged if the towed vehicle is used in the transport transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F.

(3) $300 per hour, per unit, when towing a "Heavy Duty" vehicle;

(a) An additional 15% per hour may be charged if the towed vehicle is used in the transport transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F.

(4) If a tow truck apparatus is mechanically connected to a vehicle, the tow truck will [~~therefore~~]be considered in possession of the vehicle.

(a) If the owner, authorized operator, or authorized agent of the owner of a motor vehicle, [~~which is in question,~~]is attempting to retrieve said vehicle before the tow truck is mechanically connected, no fee(s) will be charged to the vehicle owner.

(b) If the owner, authorized operator, or authorized agent of the owner of the vehicle, [~~which is in question,~~]is attempting to retrieve said vehicle before the vehicle is removed from the property or scene, the maximum fee shall not exceed 50% of the posted rate schedule.

(5) As fuel increases .50 per gallon from the base rate of $3.00, a surcharge shall be allowed of 10% of the base rate. Conversely, if prices drop, they will decrease by the same amount.

(a) To determine the average daily per gallon diesel cost, [~~please~~]refer to "http://tonto.eia.doe.gov/oog/info/wohdp/diesel.asp".

(6) Charges for [~~R~~]recovery operations[~~charges~~], as defined by R909-19-3, shall be coordinated with the towed vehicle owner prior to initiating the additional charges relating to the recovery operation. Coordination with the towed vehicle owner should result in an agreement between the tow vehicle owner and Tow Truck Motor Carrier.

(7) Pursuant to Utah Code Ann. Section 72-9-603 it is illegal for a Tow Truck Motor Carrier to require the owner of an impounded vehicle to pay any money other than the appropriate amount listed in this rule. Any tow truck service charging more than the maximum approved rates may be assessed civil penalties determined by the Department, as authorized under Section 72-9-303.

(8) Tow Truck Motor Carriers shall obey all local city and county laws, when applicable, pertaining to placement of signs, notification, and other towing related ordinances.[~~Tow Truck~~

~~Lighting 41-6a-161.~~] Strobe lights are not allowed on Tow Trucks. The acceptable [~~light~~]color[s] for tow truck lights is amber[~~are orange and yellow~~].

R909-19-13. Maximum Non-Consent Non Police Generated Towing Rate.

(1) The maximum rate for a "Light Duty" vehicle is $[~~121~~]145 per tow.

(2) The maximum rate for a "Medium Duty" vehicles is $[~~200~~]240 per tow.

(3) The maximum rate for a "Heavy Duty" vehicle is $[~~250~~]300 per tow.

(4) If a tow truck apparatus is mechanically connected to a vehicle, the tow truck will [~~therefore~~]be considered in possession of the vehicle.

(a) If the owner, authorized operator, or authorized agent of the owner of a motor vehicle, [~~which is in question,~~]is attempting to retrieve said vehicle before the tow truck is mechanically connected, no fee(s) will be charged to the vehicle owner.

(b) If the owner, authorized operator, or authorized agent of the owner of the vehicle, [~~which is in question,~~]is attempting to retrieve said vehicle before the vehicle is removed from the property or scene, the maximum fee shall not exceed 50% of the posted rate schedule.

(5) Pursuant to [~~Utah Code Ann.~~]Section 72-9-603, it is illegal for a Tow Truck Motor Carrier to require the owner of an impounded vehicle to pay any money other than the appropriate amount listed in this rule. Any tow truck service charging more than the maximum approved rates may be assessed civil penalties determined by the Department, as authorized under Section 72-9-303.

(6) Tow Truck Motor Carriers shall obey all local city and county laws, when applicable, pertaining to placement of signs, notification, and other towing related ordinances.

R909-19-14. Maximum Storage Rates. Non-Consent Tows.

(1) $25 Maximum per day, per unit, for outside storage of "Light Duty" vehicles;

(2) $30 Maximum per day, per unit may be charged for inside storage of "Light Duty" vehicles only at the owner's request, or at the order of a law enforcement agency or highway authority.

(3) $45 Maximum per day, per unit for outside storage of "Medium/Heavy Duty" vehicles;

(4) $70 Maximum per day, per unit may be charged for inside storage of "Medium/Heavy Duty" vehicles only at the owner's request, or at the order of a law enforcement agency or highway authority.

(5) $100 Maximum per day, per unit for outside storage of vehicles used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F.

(6) $150 Maximum per day, per unit may be charged for inside storage of vehicles used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F, only at the owner's request, or at the order of a law enforcement agency or highway authority.

(7) Pursuant to [~~Utah Code Ann.~~]Section 72-9-603, it is illegal for a Tow Truck Motor Carrier to require the owner of an impounded vehicle to pay any money other than the appropriate amount listed in this rule. Any tow truck service charging more than the maximum approved rates may be assessed civil penalties determined by the Department, as authorized under Section 72-9-303.

(8) For the purpose of calculating storage rates, if the first six (6) hours of storage for a vehicle includes more than one day, the authorized storage fee is only the charge for one day.

KEY: safety regulations, trucks, towing, certifications
Date of Enactment or Last Substantive Amendment: [~~October 15~~], 2009
Notice of Continuation: September 25, 2006
Authorizing, and Implemented or Interpreted Law: 41-6a-1404; 41-6a-1405; 41-6a-1406[~~104~~]; 53-1-106; 53-8-105; 63J-1-303; 72-9-601; 72-9-602; 72-9-603; 72-9-604; 72-9-301; 72-9-303; 72-9-701; 72-9-702; 72-9-703

Workforce Services, Unemployment Insurance
R994-106-104
Determining the Paying State

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 33114
FILED: 10/29/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to comply with federal regulation.

SUMMARY OF THE RULE OR CHANGE: The Department of Labor changed the way the paying state is determined in combined wage claims (CWC). Now a claimant determines the paying state and provided the claimant is eligible, unemployment benefits are paid by that state according to that state's rules. This proposed amendment brings Utah into compliance with the federal guidance.

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

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

♦ LOCAL GOVERNMENTS: This is a federally-funded program so there are no costs or savings to any local government.
♦ SMALL BUSINESSES: There are no costs or savings to any other persons or small businesses as there are no fees associated with this program and it is federally funded.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are on costs or savings to any person or entity as this is a federally funded program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is not anticipated this will result in a change in any unemployment tax rate or unemployment benefit amount. This change just helps determine which state is the paying state but the costs of benefits are still split among the several states where wages were paid in the same ratio as before.
COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. These changes will have no impact on any employers contribution tax rate.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
WORKFORCE SERVICES
UNEMPLOYMENT INSURANCE
140 E 300 S
SALT LAKE CITY, UT 84111-2333
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/15/2009

THIS RULE MAY BECOME EFFECTIVE ON: 12/22/2009

AUTHORIZED BY: Kristen Cox, Executive Director

R994. Workforce Services, Unemployment Insurance.
R994-106. Combined Wage Claims.
R994-106-104. Determining the Paying State in Combined Wage Claim (CWC) Claims.

(1) The paying state is the state in which the claimant elects to file a CWC, provided the claimant has employment and wages in that state's base period and the claimant qualifies for unemployment under the law of that state using combined employment and wages. The claimant is responsible for deciding the state against which to file a CWC.

(2) If a claimant files a CWC in Utah but is not monetarily eligible for benefits against Utah, Utah will advise the claimant of Utah's qualifying requirements and his or her potential eligibility for benefits, if any, under Utah law. The claimant will also be told that he or she has the option to file in any other state/s where he or she has employment and wages. Utah will advise the claimant that state laws vary and there are differences in weekly benefits amounts and other qualifying requirements in different states. If the claimant wishes to explore options with any other state/s, Utah will provide the claimant with contact information for that/those state/s.

(3) If a claimant is found to be monetarily ineligible in Utah, the claimant can file in another state where he or she has employment and wages in that state's base period. If a claimant was found monetarily ineligible in another state and then files in Utah, Utah can use the effective date of the original claim, provided the claimant filed within the appeal period from the original state's monetary denial.[~~(1) The paying state is determined in order of the following priorities:~~

~~(a) the state in which the combined wage claim is filed if the claimant qualifies for unemployment benefits in that state on the basis of combined employment and wages; then~~

~~(b) if the claimant is not monetarily eligible for benefits in the state of filing, a combined wage claim must be considered against the state of last employment. If the claimant is not eligible under the law of this state, the state of next-to-last employment must be considered and so on through the order in which the work was performed; or~~

~~(c) if the combined wage claim is filed in Canada, the paying state will be that state where the combined wage claimant was last employed in covered employment among the states with wages used in determining the claim.~~

~~(2) The claimant has the right to claim against another state or states if he receives an ineligible monetary determination. If such request is made in accordance with instructions from the local office or within the appeal period of the monetary determination, a claim may be taken against another state(s) with the effective date of the original claim.~~]

KEY: unemployment compensation, interstate compacts
Date of Enactment or Last Substantive Amendment: [~~May 30, 2008~~|2009
Notice of Continuation: May 17, 2007
Authorizing, and Implemented or Interpreted Law: 35A-4-106(1)

End of the Notices of Proposed Rules Section

NOTICES OF
120-DAY (EMERGENCY) RULES

An agency may file a **120-Day (Emergency) Rule** when it finds that the regular rulemaking procedures would:

(a) cause an imminent peril to the public health, safety, or welfare;
(b) cause an imminent budget reduction because of budget restraints or federal requirements; or
(c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **Proposed Rule**, a **120-Day Rule** is preceded by a **Rule Analysis**. This analysis provides summary information about the **120-Day Rule** including the name of a contact person, justification for filing a **120-Day Rule**, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (**. . . . . .**) indicates that unaffected text was removed to conserve space.

A **120-Day Rule** is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A **120-Day Rule** is effective for 120 days or until it is superseded by a permanent rule.

Because **120-Day Rules** are effective immediately, the law does not require a public comment period. However, when an agency files a **120-Day Rule**, it usually files a **Proposed Rule** at the same time, to make the requirements permanent. Comments may be made on the **Proposed Rule**. Emergency or **120-Day Rules** are governed by Section 63G-3-304; and Section R15-4-8.

Health, Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health
R388-805
Ryan White Program

NOTICE OF 120-DAY (EMERGENCY) RULE
DAR FILE NO.: 33085
FILED: 10/22/2009

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to change the eligibility requirements for services from 400% of the Federal Poverty Level (FPL) to 250% of the FPL due to projected shortfalls in the Program.

SUMMARY OF THE RULE OR CHANGE: In Subsection R388-805-6(2), reduce eligibility requirement from 400% of the FPL to 250% of the FPL. (DAR NOTE: A corresponding proposed amendment is under DAR No. 33086 in this issue, November 15, 2009, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-15 and Section 26-1-18 and Section 63G-3-202 and Subsections 26-1-30(2)(a), (b), (c)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: A portion of the state's budget can be considered a savings. This is a federally-funded program that provides services to people living with HIV/AIDS. It is anticipated that there will be a projected savings of up to $375,000 to ensure that the Program will stay within its budget. However, there are various variables that do not allow us to accurately project the savings.
♦ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government because the program governed by this rule neither requires action from nor provides benefits to local governments.
♦ SMALL BUSINESSES: There are no anticipated costs or savings to small businesses because the program governed by this rule neither requires action from nor provides benefits to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The rule change will affect individuals who are over the 250% FPL. They will now have to pay the costs associated with their medications and/or health insurance premiums and other support services offered by this program such as dental and mental health services. It is anticipated that there will be a projected savings of up to $375,000 to ensure that the Program will stay within its budget. However, there are various variables that do not allow us to accurately access the savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are compliance costs associated with this rule change. There are numerous variables that can impact the costs such as if individuals decide to continue to take their medication or not

paying for health insurance premiums that the Program was previously paying for. The Department estimates that this change will affect 90 people currently on the program and another 120 people who would otherwise be eligible per year. The costs can range from $1,200 to $13,000 per person per year. The range depends upon whether or not clients are responsible for full pay or partial pay for their services.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change is necessary to keep this program within available budget.

EMERGENCY RULE REASON AND JUSTIFICATION:
REGULAR RULMAKING PROCEDURES WOULD cause an imminent budget reduction because of budget restraints or federal requirements.
The Ryan White Program has a projected shortfall of approximately $375,000. As a strategy to make the budget balance, the FPL would need to be reduced to 250% which includes the dis-enrollment of clients utilizing the services the Program offers.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
EPIDEMIOLOGY AND LABORATORY SERVICES;
HIV/AIDS, TUBERCULOSIS CONTROL/
REFUGEE HEALTH
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:
♦ Jennifer Brown by phone at 801-538-6131, by FAX at 801-538-9913, or by Internet E-mail at jenniferbrown@utah.gov

EFFECTIVE: 10/23/2009

AUTHORIZED BY: David Sundwall, Executive Director

R388. Health, Epidemiology and Laboratory Services; HIV/AIDS, Tuberculosis Control/Refugee Health.
R388-805. Ryan White Program.
R388-805-3. Nature of Program and Benefits.

(1) The Ryan White Program provides reimbursement to providers for services rendered to HIV positive individuals who meet the eligibility requirements. The Ryan White Program provides limited services as described in this rule. The Department provides reimbursement coverage under the program only for services for each program:

(a) as provided in law governing the Ryan White HIV/AIDS Treatment Modernization Act of 2006;

(b) as described and limited in the Treatment and Care Program Comprehensive Plan, dated [~~January 2007~~]January 2009, which is adopted and incorporated by reference, and all applicable laws and rules;

(c) to the extent that it has agreed to reimburse providers with whom it contracts to provide services; and

(d) as limited in manuals that form part of its Provider Agreements or contracts with providers.

(2) Within available funding, the Department provides the following services under the Ryan White Program;

(a) The AIDS Drug Assistance Program (ADAP) provides HIV related medications;

(b) The Health Insurance Continuation Program pays for health insurance premiums and medication co-pays;

(c) Supportive Services Program provides a variety of supportive services that enable the client to access medical care as well as to retain the client in medical care.

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

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

R388-805-6. Ryan White Program Eligibility.

(1) To receive services under the Ryan White Program, an individual must be a Utah resident and must have a medical diagnosis of HIV infection as verified by the individuals's physician.

(a) An individual may own one home and one registered vehicle but may not have any other assets over $5,000.00.

(b) If an individual owns a vehicle that is not registered and is considered an asset by Medicaid, which then prevents the individual from receiving benefits from Medicaid, the individual is also ineligible for services under the Ryan White Program.

(c) If an individual is ineligible for Medicaid due to failing Medicaid asset limits but otherwise meet Medicaid eligibility requirements, the individual is also ineligible for services under the Ryan White Program.

(2) To receive services under the AIDS Drugs Assistance Program, the Health Insurance Continuation Program and the Supportive Services Program, an individual must have income not exceeding [~~400%~~]250% of the federal poverty level by providing any of the following:

(i) Immediate year Tax Return.
(ii) Immediate year W-2 Form(s).
(iii) Most recent pay Stub/Earnings Statement.
(iv) Most recent Social Security Disability Income Letter.
(v) Most recent Supplemental Security Income Letter.
(vi) Most recent Unemployment Statement.
(vii) Most recent General Assistance Letter from the Department of Workforce Services.
(viii) Most recent Disability Income Letter from a disability insurer.

(3) To be eligible to receive assistance from the AIDS Drug Assistance Program, an individual:

(a) must not be eligible for Medicaid and not covered for the medication requested through this program by any other public or private health insurance coverage;

(b) must have a prescription for the medication requested.

(4) To participate in the Health Insurance Continuation Program, an individual must currently take HIV anti-retroviral medications.

(5) To participate in the Consolidated Omnibus Budget Reconciliation Act (COBRA) Continuation program an individual must meet the following additional eligibility criteria:

(a) The individual must have a medical diagnosis of HIV disease or is a dependent with HIV disease who is covered under the health insurance of someone else;

(b) The policy covers HIV related costs and outpatient HIV related drugs;

(c) The policy can be converted under COBRA;.

(d) The individual has not previously been denied health insurance coverage for HIV disease related services;

(e) The individual must be ineligible for Medicaid or for group/individual health insurance from the individual's current employer;

(f) The individual must have begun the process of securing income support through the Social Security Disability Insurance (SSDI), or the Supplemental Security Income (SSI) or other disability programs if the individual is disabled, or have applied to receive public entitlement benefits.

(6) Clients must re-certify annually in order to continue program participation.

KEY: treatment and care, HIV/AIDS, ADAP, Ryan White Program
Date of Enactment or Last Substantive Amendment: October 23, 2009
Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-1-15; 26-1-18; 26-1-30(2)(a), (b), (c), (g)

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to 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.

Administrative Services, Child Welfare Parental Defense (Office of)
R19-1
Parental Defense Counsel Training

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 33081
FILED: 10/21/2009

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 63A-11-202(3) requires training standards for parental defenders who are under contract with either the counties or the Office of Child Welfare Parental Defense.

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 statute requiring the creation of trainings for parental defenders continues to be in effect. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ADMINISTRATIVE SERVICES
CHILD WELFARE PARENTAL DEFENSE
(OFFICE OF)
ROOM 3120 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Sal Petilos by phone at 801-538-3091, by FAX at 801-538-3844, or by Internet E-mail at spetilos@utah.gov

AUTHORIZED BY: Kimberly Hood, Executive Director

EFFECTIVE: 10/21/2009

Administrative Services, Facilities Construction and Management
R23-2
Procurement of Architect-Engineer Services

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 33093
FILED: 10/26/2009

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted under the authority of Subsection 63A-5-103(1)(e), which directs the Utah Building Board to make rules necessary for the discharge of duties of the Division of Facilities, Construction and Management (DFCM); and Subsection 63G-6-208(2) which establishes procedures for the procurement of architect-engineer services by the Division.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: DFCM and the Utah Building Board have not received written comments, either in support or opposition to Rule R23-2.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R23-2 establishes procedures for the procurement of architect-engineer services by the Division. Therefore, this rule should be continued.

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

ADMINISTRATIVE SERVICES
FACILITIES CONSTRUCTION AND MANAGEMENT
ROOM 4110 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114-1201
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov
♦ La Priel Dye by phone at 801-538-3240, by FAX at 801-538-3313, or by Internet E-mail at ldye@utah.gov
♦ Priscilla Anderson by phone at 801-538-9595, by FAX at 801-538-3378, or by Internet E-mail at phanderson@utah.gov

AUTHORIZED BY: D. Gregg Buxton, Director

EFFECTIVE: 10/26/2009

Agriculture and Food, Regulatory Services
R70-440
Egg Products Inspection

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 33071
FILED: 10/21/2009

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 4-4-2 gives the Department the authority to make and enforce rules. The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to make and enforce such rules as in its judgment are necessary to administer and enforce this chapter. The statute enables the Department to regulate eggs in Utah. Specifically, the Department grades the quality of the eggs for market.

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 on this rule since the last 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 Department is able to provide grading services to Utah's egg industry far cheaper than can the USDA. In order for the Department to provide the service, the rule must be in place. Therefore, this rule should be continued.

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:

♦ 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: 10/21/2009

Agriculture and Food, Regulatory Services
R70-540
Food Establishment Registration

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 33072
FILED: 10/21/2009

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 4-5-9 gives a clear mandate to the Department to establish a rule for the registration of food establishments. Subsection 4-5-9(1) (a) pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall establish rules providing for the registration of food establishments to protect public health and ensure a safe food supply.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received written comments regarding this rule. However, the rule was amended in 2007 to reflect a new statutory fee exemption for bona fide farmer's markets.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The original justification of the rule, to register all food establishments in order to have effective food safety, still exists. Therefore, this rule should be continued.

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:
♦ 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: 10/21/2009

Agriculture and Food, Regulatory Services
R70-960
Weights and Measures Fee Registration

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 33070
FILED: 10/21/2009

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 department is given authority to charge weights and measures registration fees, and is given a mandate to establish rules for registration, as follows: Subsection 4-9-15(1)(a) pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall establish rules providing for the registration of weights and measures users and issuance of certification of weights and measures devices to ensure the use of correct weights and measures in commerce or trade. In Subsection 4-9-15(1)(i)(i), the department may, as provided under Subsection 4-2-2(2), charge the weights and measures user a registration fee.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: To date, the Department has not received written comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The original justification for this rule, to register all devices in the state so that they can be regulated effectively, still exists. An entire database has been constructed and maintained for this purpose. Therefore, this rule should be continued.

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:
♦ Brett Gurney by phone at 801-538-7158, by FAX at 801-538-7126, or by Internet E-mail at bgurney@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: 10/21/2009

Education, Administration
R277-471
Oversight of School Inspections

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 33089
FILED: 10/23/2009

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

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

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to provide specific provisions for the oversight of public school construction inspections and local school board/charter school board responsibilities and accountability to the Board to ensure compliance on public school construction/renovation projects. 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: 10/23/2009

Education, Administration
R277-607
Truancy Prevention

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 33090
FILED: 10/23/2009

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

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

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to provide necessary procedures directing local school boards/charter school boards to develop truancy policies including specific components. 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: 10/23/2009

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: 10/23/2009

Education, Rehabilitation
R280-203
Certification Requirements for Interpreters for the Hearing Impaired

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 33091
FILED: 10/23/2009

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 Utah State Board of Education (Board) and Subsection 53A-1-401(3) allows the Board to adopt rules in accordance with its responsibilities.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to provide directives under Subsection 53A-26a-202(2). Therefore, this rule should be continued.

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

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-7A
Medicaid Certification of New Nursing Facilities

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 33068
FILED: 10/20/2009

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-5 grants the Department of Health the power to adopt, amend, or rescind rules that shall have the force and effect of law. In addition, 42 CFR 483.30 sets standards for nursing facilities providing services to eligible Medicaid clients.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it specifies where to find the administrative procedures in both statute and rule for Medicaid certification of new nursing facilities.

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:

♦ Kimi McNutt by phone at 801-538-6381, by FAX at 801-538-6099, or by Internet E-mail at kmcnutt@utah.gov

AUTHORIZED BY: David Sundwall, Executive Director

EFFECTIVE: 10/20/2009

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-7B
Nurse Aide Training and Competency Evaluation Program

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 33069
FILED: 10/20/2009

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-5 grants the Department of Health the power to adopt, amend, or rescind rules that shall have the force and effect of law. In addition, the Omnibus Budget Reconciliation Act (OBRA) of 1987 authorizes the nurse aide training and competency evaluation 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: The Department has not received any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it outlines the procedures and requirements for the nurse aide training and competency evaluation program.

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:
♦ Kimi McNutt by phone at 801-538-6381, by FAX at 801-538-6099, or by Internet E-mail at kmcnutt@utah.gov

AUTHORIZED BY: David Sundwall, Executive Director

EFFECTIVE: 10/20/2009

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-11
Podiatry Services

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 33077
FILED: 10/21/2009

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-5 grants the Department of Health the power to adopt, amend, or rescind rules that shall have the force and effect of law. In addition, 42 CFR 440.60 authorizes the Department to provide podiatry services to eligible Medicaid clients.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it outlines eligibility requirements, access requirements, service coverage, and reimbursement for Medicaid clients receiving podiatry services.

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:
♦ Kimi McNutt by phone at 801-538-6381, by FAX at 801-538-6099, or by Internet E-mail at kmcnutt@utah.gov

AUTHORIZED BY: David Sundwall, Executive Director

EFFECTIVE: 10/21/2009

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-35
Mental Health Services for Children in State Custody

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 33117
FILED: 11/02/2009

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-5 grants the Department of Health the power to adopt, amend, or rescind rules that shall have the force and effect of law. In addition, 42 CFR 440 authorizes the Department to provide mental health services to eligible Medicaid clients.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it outlines eligibility requirements, access requirements, service coverage, and reimbursement for children in state custody receiving mental health services.

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:
♦ Kimi McNutt by phone at 801-538-6381, by FAX at 801-538-6099, or by Internet E-mail at kmcnutt@utah.gov

AUTHORIZED BY: David Sundwall, Executive Director

EFFECTIVE: 11/02/2009

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-36
Services by Community Mental Health Centers

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 33075
FILED: 10/21/2009

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-5 grants the Department of Health the power to adopt, amend, or rescind rules that shall have the force and effect of law. In addition, 42 CFR 440.130 authorizes services provided by community mental health centers.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it outlines eligibility requirements, access requirements, service coverage, and reimbursement for Medicaid clients receiving services provided by community mental health centers.

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:
♦ Kimi McNutt by phone at 801-538-6381, by FAX at 801-538-6099, or by Internet E-mail at kmcnutt@utah.gov

AUTHORIZED BY: David Sundwall, Executive Director

EFFECTIVE: 10/21/2009

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it outlines eligibility requirements, access requirements, service coverage, and reimbursement for Medicaid clients receiving dental services.

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:
♦ Kimi McNutt by phone at 801-538-6381, by FAX at 801-538-6099, or by Internet E-mail at kmcnutt@utah.gov

AUTHORIZED BY: David Sundwall, Executive Director

EFFECTIVE: 11/02/2009

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-49
Dental Services

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 33116
FILED: 11/02/2009

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-5 grants the Department of Health the power to adopt, amend, or rescind rules that shall have the force and effect of law. In addition, 42 CFR 440.100 authorizes the Department to provide dental services to eligible Medicaid clients.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written or oral comments regarding this rule.

Health, Health Care Financing, Coverage and Reimbursement Policy
R414-50
Dental, Oral and Maxillofacial Surgeons

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 33078
FILED: 10/21/2009

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-5 grants the Department of Health the power to adopt, amend, or rescind rules that shall have the force and effect of law. In addition, 42 USC 1396d(a)(5) authorizes oral and maxillofacial surgery 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: The Department has not received any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it outlines eligibility requirements, access requirements, service coverage, and reimbursement for dental, oral, and maxillofacial surgeons providing services to eligible Medicaid clients.

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:
♦ Kimi McNutt by phone at 801-538-6381, by FAX at 801-538-6099, or by Internet E-mail at kmcnutt@utah.gov

AUTHORIZED BY: David Sundwall, Executive Director

EFFECTIVE: 10/21/2009

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

Alcoholic Beverage Control
Administration
No. 32897 (AMD): R81-1-3. General Policies.
Published: 09/15/2009
Effective Date: 10/27/2009

Commerce
Occupational and Professional Licensing
No. 32711 (AMD): R156-16a. Optometry Practice Act Rules.
Published: 07/01/2009
Effective Date: 10/22/2009

No. 32711 (CPR): R156-16a. Optometry Practice Act Rules.
Published: 09/15/2009
Effective Date: 10/22/2009

No. 32914 (AMD): R156-28. Veterinary Practice Act Rule.
Published: 09/15/2009
Effective Date: 10/22/2009

No. 32717 (AMD): R156-55b-302a. Qualifications for Licensure - Education and Experience Requirements.
Published: 07/01/2009
Effective Date: 10/22/2009

No. 32717 (CPR): R156-55b-302a. Qualifications for Licensure - Education and Experience Requirements.
Published: 09/15/2009
Effective Date: 10/22/2009

No. 32913 (AMD): R156-60a. Social Worker Licensing Act Rules.
Published: 09/15/2009
Effective Date: 10/22/2009

No. 32883 (AMD): R156-75. Genetic Counselors Licensing Act Rules.
Published: 09/01/2009
Effective Date: 10/22/2009

No. 32884 (AMD): R156-77. Direct-Entry Midwife Act Rules.
Published: 09/01/2009
Effective Date: 10/22/2009

No. 32885 (AMD): R156-78B-9. Action upon Request - Scheduling Procedures - Continuances.
Published: 09/01/2009
Effective Date: 10/22/2009

Education
Administration
No. 32917 (AMD): R277-494. Charter School and Online Student Participation in Extracurricular or Co-curricular School Activities.
Published: 09/15/2009
Effective Date: 10/22/2009

No. 32918 (AMD): R277-501. Educator Licensing Renewal and Timelines.
Published: 09/15/2009
Effective Date: 10/22/2009

No. 32919 (AMD): R277-502-6. Returning Educator Relicensure.
Published: 09/15/2009
Effective Date: 10/22/2009

Health
Children's Health Insurance Program
No. 32928 (AMD): R382-10. Eligibility.
Published: 09/15/2009
Effective Date: 10/22/2009

Epidemiology and Laboratory Services, Environmental Services
No. 32839 (AMD): R392-302. Design, Construction, and Operation of Public Pools.
Published: 08/15/2009
Effective Date: 10/22/2009

Health Care Financing, Coverage and Reimbursement Policy
No. 32927 (AMD): R414-301. Medicaid General Provisions.
Published: 09/15/2009
Effective Date: 10/22/2009

No. 32933 (AMD): R414-304. Income and Budgeting.
Published: 09/15/2009
Effective Date: 10/22/2009

No. 32935 (AMD): R414-305. Resources.
Published: 09/15/2009
Effective Date: 10/22/2009

Center for Health Data, Health Care Statistics
No. 32858 (NEW): R428-15. Health Data Authority Health Insurance Claims Reporting.
Published: 08/15/2009
Effective Date: 10/27/2009

Human Services
Child and Family Services
No. 32905 (AMD): R512-51. Fee Collection for Criminal Background Screening for Prospective Foster and Adoptive Parents and for Employees of Other Department of Human Services Licensed Programs.
Published: 09/15/2009
Effective Date: 10/22/2009

No. 32906 (AMD): R512-60. Children's Trust Account.
Published: 09/15/2009
Effective Date: 10/22/2009

No. 32907 (AMD): R512-200. Child Protective Services, Intake Services.
Published: 09/15/2009
Effective Date: 10/22/2009

No. 32909 (AMD): R512-204. Child Protective Services, New Caseworker Training.
Published: 09/15/2009
Effective Date: 10/22/2009

Insurance
Administration
No. 32879 (AMD): R590-196. Bail Bond Surety Fee Standards, Collateral Standards, and Disclosure Form.
Published: 09/01/2009
Effective Date: 10/22/2009

Natural Resources
Parks and Recreation
No. 32899 (AMD): R651-202-1. Boating Advisory Council.
Published: 09/15/2009
Effective Date: 10/27/2009

No. 32898 (NEW): R651-700. Administrative Procedures for Real Property Management.
Published: 09/15/2009
Effective Date: 10/27/2009

Wildlife Resources
No. 32921 (AMD): R657-9. Taking Waterfowl, Common Snipe and Coot.
Published: 09/15/2009
Effective Date: 10/22/2009

No. 32922 (AMD): R657-10. Taking Cougar.
Published: 09/15/2009
Effective Date: 10/22/2009

No. 32923 (AMD): R657-11. Taking Furbearers.
Published: 09/15/2009
Effective Date: 10/22/2009

No. 32924 (AMD): R657-12. Hunting and Fishing Accommodations for People With Disabilities.
Published: 09/15/2009
Effective Date: 10/22/2009

No. 32926 (AMD): R657-39. Wildlife Board and Regional Advisory Councils.
Published: 09/15/2009
Effective Date: 10/22/2009

No. 32929 (AMD): R657-50. Error Remedy.
Published: 09/15/2009
Effective Date: 10/22/2009

No. 32930 (AMD): R657-54. Taking Wild Turkey.
Published: 09/15/2009
Effective Date: 10/22/2009

School and Institutional Trust Lands
Administration
No. 32931 (AMD): R850-40-250. Determination of the Status of Temporary Easements and Rights-of-Entry.
Published: 09/15/2009
Effective Date: 10/22/2009

No. 32932 (AMD): R850-140. Development Property.
Published: 09/15/2009
Effective Date: 10/22/2009

Sports Authority (Utah)
Pete Suazo Utah Athletic Commission
No. 32920 (AMD): R859-1-501. Promoter's Responsibility in Arranging Contests - Permit Fee, Bond, Restrictions.
Published: 09/15/2009
Effective Date: 10/28/2009

Technology Services
Administration
No. 32891 (NEW): R895-13. Access to the Identity Theft Reporting Information System Database.
Published: 09/15/2009
Effective Date: 10/26/2009

Transportation
Program Development
No. 32934 (NEW): R926-12. Share the Road Bicycle Support Restricted Account.
Published: 09/15/2009
Effective Date: 10/22/2009

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, 2009, including notices of effective date received through November 2, 2009. The Rules Index is published in the Utah State Bulletin and in the annual 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).

DAR NOTE: The index is not included in this issue of the Utah State Bulletin. The release of eRules version 2.0 has introduced different functionality with regards to the index; this functionality has yet to be fully tested. Persons interested in alternative methods of acquiring the same information should visit "Researching Administrative Rules" at: http://www.rules.utah.gov/research.htm

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/).