

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
Filed February 17, 2010, 12:00 a.m. through March 01, 2010, 11:59 p.m.

Number 2010-6  
March 15, 2010

Kimberly K. Hood, Executive Director  
Kenneth A. Hansen, Director  
Nancy L. Lancaster, Editor

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

Unless otherwise noted, all information presented in this publication is in the public domain and may be reproduced, reprinted, and redistributed as desired. Materials incorporated by reference retain the copyright asserted by their respective authors. Citation to the source is requested.

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

# TABLE OF CONTENTS

---

<b>EDITOR'S NOTES</b> .....	<b>1</b>
Administrative Services	
Administrative Rules	
Notice of Codification Error: Expiration of Rule R426-100, DAR No. 33026.....	1
Notice of Codification Error: Rule R657-24, DAR No. 28796.....	1
<b>SPECIAL NOTICES</b> .....	<b>3</b>
Health	
Health Care Financing, Coverage and Reimbursement Policy	
Notice for April 2010 Medicaid Rate Changes.....	3
<b>NOTICES OF PROPOSED RULES</b> .....	<b>5</b>
Administrative Services	
Risk Management	
No. 33393 (Amendment): R37-4 Adjusted Utah Governmental Immunity Act	
Limitations on Judgments.....	6
Commerce	
Real Estate	
No. 33398 (Amendment): R162-106-7 Sales and Listing History.....	7
Health	
Health Care Financing, Coverage and Reimbursement Policy	
No. 33414 (Amendment): R414-1-28 Cost Sharing.....	8
No. 33415 (Amendment): R414-10-6 Copayment Policy.....	9
No. 33416 (Amendment): R414-11-8 Copayment Policy.....	10
No. 33417 (Amendment): R414-55-3 Copayment Policy.....	11
No. 33418 (Amendment): R414-60-6 Co-payment Policy.....	12
No. 33419 (Amendment): R414-200-4 Cost Sharing.....	13
Money Management Council	
Administration	
No. 33420 (Amendment): R628-11 Maximum Amount of Uninsured Public	
Funds Allowed to Be Held by Any Qualified Depository.....	14
Natural Resources	
Parks and Recreation	
No. 33408 (Amendment): R651-101-1 Authority and Effective Date.....	16
No. 33422 (Amendment): R651-206-3 Utah Captain's/Guides License and Utah	
Boat Crew Permit.....	17
No. 33424 (Amendment): R651-219-7 Equipment Exemptions.....	20
No. 33421 (New Rule): R651-412 Curriculum Standards for OHV Education	
Programs Offered by Non-Division Entities.....	22
Public Safety	
Driver License	
No. 33411 (Amendment): R708-39-4 Knowledge Testing.....	23
Workforce Services	
Employment Development	
No. 33412 (Amendment): R986-900-902 Options and Waivers.....	24
<b>NOTICES OF CHANGES IN PROPOSED RULES</b> .....	<b>27</b>
Health	
Epidemiology and Laboratory Services, Environmental Services	
No. 33076: R392-303 Public Geothermal Pools and Bathing Places.....	28
<b>NOTICES 120-DAY (EMERGENCY) RULES</b> .....	<b>31</b>
Health	
Health Care Financing, Coverage and Reimbursement Policy	
No. 33413: R414-3A Outpatient Hospital Services.....	31

TABLE OF CONTENTS

---

**FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION.....35**

- Administrative Services
  - Records Committee
    - No. 33399: R35-1a State Records Committee/Definitions.....35
- Commerce
  - Occupational and Professional Licensing
    - No. 33402: R156-17b Pharmacy Practice Act Rule.....35
    - No. 33409: R156-55d Utah Construction Trades Licensing Act  
Burglar Alarm Licensing Rule.....36
- Education
  - Administration
    - No. 33397: R277-501 Educator Licensing Renewal and Timelines.....37
- Health
  - Epidemiology and Laboratory Services, Environmental Services
    - No. 33410: R392-600 Illegal Drug Operations Decontamination Standards.....37
  - Health Care Financing, Coverage and Reimbursement Policy
    - No. 33403: R414-33C Targeted Case Management for the Homeless.....38
    - No. 33407: R414-61 Home and Community-Based Services Waivers.....39
- Insurance
  - Administration
    - No. 33404: R590-140 Reference Filings of Rate Service Organization  
Prospective Loss Costs.....39
- Natural Resources
  - Oil, Gas and Mining; Coal
    - No. 33394: R645-105 Blaster Training, Examination and Certification.....40
    - No. 33395: R645-400 Inspection and Enforcement: Division Authority  
and Procedures.....40

**NOTICES FIVE-YEAR REVIEW EXTENSION.....43**

- Capitol Preservation Board (State)
  - Administration
    - No. 33405: R131-8 CPB Facilities and Grounds: Maintenance of Aesthetics.....43
    - No. 33406: R131-9 State Capitol Preservation Board Art Program and Policy.....43

**NOTICES OF RULE EFFECTIVE DATES.....45**

**RULES INDEX.....47**

# EDITOR'S NOTES

---

## **Notice of Codification Error: Expiration of Rule R426-100, DAR No. 33026**

Under certain circumstances, the Utah Administrative Rulemaking Act requires that the Division of Administrative Rules (Division) remove a rule from the Utah Administrative Code. Specifically, in the case of Rule R426-100, Emergency Medical Services Do Not Resuscitate, the Division is directed to remove a rule when a notice of five-year review and statement of continuation, or a request for extension for a five-year review, is not received by the Division by the five-year anniversary for the rule (see Subsection 63G-3-305(8)).

No notice of five-year review and statement of continuation, or request for extension for a five-year review, was received for Rule R426-100. As a result, the rule expired on 10/02/2009 and should have been removed from the Utah Administrative Code on that date. Due to a processing error at the Division, the rule remained in the code.

The rule will immediately be removed from the code. The Division regrets any inconvenience caused by this error.

*For questions regarding this notice, contact Nancy Lancaster at 801-538-3218, or FAX at 801-359-0759, or email at [nllancaster@utah.gov](mailto:nllancaster@utah.gov).*

---

## **Notice of Codification Error: Rule R657-24, DAR No. 28796**

The Division of Wildlife Resources (DWR) published an amendment to Rule R657-24 in the July 1, 2006, Utah State Bulletin (see <http://www.rules.utah.gov/publicat/bulletin/2006/20060701/28796.htm>). DWR later made the amendment effective on 08/08/2006 (see <http://www.rules.utah.gov/publicat/bulletin/2006/20060901/effect.htm>).

Records at the Division of Administrative Rules (Division) show that the notice of effective date was received, and the amendment processed for inclusion in the Utah Administrative Code. For some reason, the final version of the text associated with this amendment was not included as it should have been. As a result, the Division has included the wrong version of the rule in the Utah Administrative Code ever since.

Because DWR properly filed the amendment to Rule R657-24, because the Division properly published the amendment, and because, as a result, the public had proper notice of the amendment and an opportunity to comment, the Division will correct the Utah Administrative Code to reflect the changes made by DAR No. 28796.

The correct text is reproduced below.

### **R657. Natural Resources, Wildlife Resources.**

#### **R657-24. Compensation for Mountain Lion, Bear or Eagle Damage.**

##### **R657-24-1. Purpose and Authority.**

Under authority of Section 23-24-1, this rule provides the procedures, standards, requirements and limits for obtaining compensation for damages to livestock by mountain lion, black bear or an eagle.

##### **R657-24-2. Definitions.**

- (1) Terms used in this rule are defined in Sections 23-13-2 and 23-24-1(1).
- (2) In addition:
  - (a) "Black bear" means *Ursus americanus*.
  - (b) "Fair market value" means the average commercial livestock prices from July 1 through June 30, as determined by the Utah Livestock and Auction Reporting Service.
  - (c) "Injury" means an act by a mountain lion or bear that results in the death of livestock within 30 days of the act or a permanent injury to livestock.
  - (d) "Livestock" means cattle, sheep, goats, or turkeys.

- (e) "Mountain lion" means *Felis concolor*.
- (f) "Eagle" means *Haliaeetus leucocephalus* (bald eagle) and *Aquila chrysaetos* (golden eagle).

**R657-24-3. Notification of Damage -- Payment of Damage Claims.**

(1) When livestock are damaged by a mountain lion, bear or an eagle, the owner may receive compensation in accordance with Section 23-24-1(2).

(2)(a) Notification must be made in writing to one of the regional division offices within four working days of discovering the damage. A Proof of Loss form must then be submitted within 30 days after the original notification.

(b) Notification may be made orally to expedite field investigations, but it must be followed in writing within four working days after the damage is discovered. A Proof of Loss form must then be submitted within 30 days after the original written notification.

(3)(a) Claims for damage payments received from July 1 through June 30 are assessed and accepted or denied based on information reported on the livestock damage form.

(b) Claims accepted for damage payments are held until all damage claims for the July 1 through June 30 period have been collected.

(c) If the total amount of the damage claims exceed the appropriated funds for this purpose, damage payments will be prorated for all eligible claims.

(d) Payments for eagle damage claims shall not be made until all accepted mountain lion and bear claims for a fiscal year have first been paid.

(4) Damage payments will be paid only for confirmed losses.

(5)(a) The division or animal damage control specialists will document on approved livestock damage forms the type and magnitude of livestock losses experienced by livestock producers.

(b) Where agreement with the type or magnitude of losses is not achieved by animal damage control specialists, a division representative shall follow up with an additional field investigation to assess damage claims.

**KEY: wildlife, damages, livestock**

**Date of Enactment or Last Substantive Amendment: August 8, 2006**

**Notice of Continuation: October 7, 2005**

**Authorizing, and implemented or interpreted law: 4-23-7; 23-24-1**

*For questions regarding this notice, contact Michael Broschinsky at 801-538-3003, or FAX at 801-359-0759, or email at mbroschi@utah.gov.*

**End of the Editor's Notes Section**

# **SPECIAL NOTICES**

---

## **Health Health Care Financing, Coverage and Reimbursement Policy**

### **Notice for April 2010 Medicaid Rate Changes**

Effective April 1, 2010, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies, potential adjustments to existing codes, and nursing home rate changes to case mix components consistent with adopted payment methodology. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/bcrp.htm>

**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 February 17, 2010, 12:00 a.m., and March 01, 2010, 11:59 p.m. are included in this, the March 15, 2010 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 April 14, 2010. 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 July 13, 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 OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses and the agency must start the process over.

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

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

---

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

**Administrative Services, Risk  
Management  
R37-4  
Adjusted Utah Governmental Immunity  
Act Limitations on Judgments**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 33393

FILED: 02/17/2010

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The proposed amendments adjust the limits of property and liability judgments against governmental entities and employees whom a governmental entity has a duty to indemnify for personal injury and property claims occurring on or after 07/01/2010.

**SUMMARY OF THE RULE OR CHANGE:** The consumer price index for calendar year 2009 is computed and indicated to be 4.5%. For claims occurring on or after 07/01/2010, the judgment limit for personal injury is increased to \$648,700 per person, per occurrence, and the aggregate judgment limit for personal injury is increased to \$2,221,700. The judgment limit for property damage claims occurring after 07/01/2010 is increased to \$259,500.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 63G-7-604(4)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** These increased limits increase the costs that state entities may be required to incur to resolve claims and satisfy judgments incurred for property and personal injury incidents that occur after 07/01/2010.

◆ **LOCAL GOVERNMENTS:** These increased limits increase the costs that local governmental entities may be required to incur to resolve claims and satisfy judgments incurred for property and personal injury incidents that occur after 07/01/2010.

◆ **SMALL BUSINESSES:** There may be cost increases in the recovery of subrogation claims against small businesses that are deemed jointly liable with a governmental entity in causing a personal injury or property damage claim after 07/01/2010.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There may be cost increases in the recovery of subrogation claims against persons, other than businesses and local governmental entities, who are deemed jointly liable with a governmental entity in causing a personal injury or property damage claim after 07/01/2010.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Compliance costs will be quantified in claim settlements and judgments that affected persons incur and are too individualized to determine specifically. In general, on 07/01/2010, the potential exposure for a personal injury claim will increase by \$28,000 per person, and the potential aggregate exposure for a personal injury claims will increase by \$95,000. The potential exposure for property claims on 07/01/2010, will increase by \$11,200.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** While the judgment limit increases reflected in this rule amendment will increase the potential exposure of businesses who are jointly liable with governmental entities for personal injury and property damage they cause, these increases are relatively minor, both as to the context of exposure and the extent of exposure, compared to the general exposure to businesses, who are not covered by the governmental immunity act.

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

ADMINISTRATIVE SERVICES  
RISK MANAGEMENT  
ROOM 5120 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:**

◆ Brian Nelson by phone at 801-538-9576, by FAX at 801-538-9597, or by Internet E-mail at benelson@utah.gov  
◆ Stephen Hewlett by phone at 801-538-9572, by FAX at 801-538-9597, or by Internet E-mail at shewlett@utah.gov  
◆ Tani Downing by phone at 801-538-9560, by FAX at 801-538-9597, or by Internet E-mail at tdowning@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2010

AUTHORIZED BY: Kimberly Hood, Executive Director

**R37. Administrative Services, Risk Management.**

**R37-4. Adjusted Utah Governmental Immunity Act Limitations on Judgments.**

**R37-4-1. Authority and Calculation Process.**

Pursuant to UCA 63G-7-604(4)(~~b~~) (formerly 63-30d-604(4)(b)) the Risk Manager hereby establishes a new limitation of judgment.

Accordingly, the Risk Manager has calculated the consumer price index (CPI) for calendar years [2005]2007 and [2007]2009 using the standards provided in Sections 1(f)(4) and 1(f)(5) of the Internal Revenue Code. Section 1(f)(4) has defined the

CPI for any calendar year to mean the average of the consumer price index as of the close of the 12-month period ending on August 31 of such calendar year. Section 1(f)(5) has defined "consumer price index" to mean the index used for all-urban consumers published by the Department of Labor. By applying these standards, the consumer price index for the calendar year ~~2005~~2007 is calculated to be ~~[192.77]~~204.87 and the index for ~~2007~~2009 is ~~[204.87]~~214.00. The percentage difference between the ~~2005~~2007 index and the ~~2007~~2009 index was then computed to be ~~[6.3]~~4.5%.

#### **R37-4-2. New Limitation of Judgment Amounts.**

As a result of the above required calculations, the new limitation of judgment amounts currently required by UCA 63G-7-604(1) has been increased as follows, and is effective July 1, ~~2008~~2010 for claims occurring on or after that date:

1) The limit for damages for personal injury against a governmental entity, or an employee who a governmental entity has a duty to indemnify, is ~~[\$620,700]~~\$648,700 for one person in any one occurrence [~~—(instead of—\$583,900)~~], and ~~[\$2,126,000]~~\$2,221,700 aggregate amount of individual awards that be may awarded in relation to a single occurrence [~~—(instead of—\$2,000,000)~~]; and

2) The limit for property damages (excluding damages awarded as compensation when a governmental entity has taken or damaged private property for public use without just compensation) against a governmental entity, or an employee whom a governmental entity has a duty to indemnify is ~~[\$248,300]~~\$259,500 in any one occurrence [~~—(instead of \$233,600)~~].

#### **R37-4-3. Limitations of Judgments by Calendar Date.**

The limitation on judgments are established by the date of the occurrence. The dates and dollar amounts are as follows:

1) Incident(s) occurring before July 1, 2001 - \$250,000 for one person in an occurrence, \$500,000 aggregate for two or more persons in an occurrence; and \$100,000 for property damage for any one occurrence as explained in R37-4-2(2).

2) Incident(s) occurring on or after July 1, 2001 - \$500,000 for one person in an occurrence, \$1,000,000 aggregate for two or more persons in an occurrence; and \$200,000 for property damage for any one occurrence as explained in R37-4-2(2).

3) Incident(s) occurring on or after July 1, 2002 - \$532,500 for one person in an occurrence, \$1,065,000 aggregate for two or more persons in an occurrence; and \$213,000 for property damage for any one occurrence as explained in R37-4-2(2).

4) Incident(s) occurring on or after July 1, 2004 - \$553,500 for one person in an occurrence, \$1,107,000 aggregate for two or more persons in an occurrence, and \$221,400 for property damage for any one occurrence as explained in R37-4-2(2).

5) Incident(s) occurring on or after July 1, 2006 - \$583,900 for one person in an occurrence, \$1,167,900 aggregate for two or more persons in an occurrence, and \$233,600 for property damage for any one occurrence as explained in R37-4-2(2).

6) Incident(s) occurring on or after July 1, 2007 - \$583,900 for one person in an occurrence, \$2,000,000 aggregate for two or more persons in an occurrence, and \$233,600 for property damage for any one occurrence as explained in R37-4-2(2).

7) Incident(s) occurring on or after July 1, 2008 - \$620,700 for one person in an occurrence, \$2,126,000 aggregate for

two or more persons in an occurrence, and \$248,300 for property damage for any one occurrence as explained in R37-4-2(2).

~~8) Incident(s) occurring on or after July 1, 2010 - \$648,700 for one person in an occurrence, \$2,221,700 aggregate for two or more persons in an occurrence, and \$259,500 for property damage for any one occurrence as explained in R37-4-2(2).~~

**KEY: limitation on judgments, risk management, governmental immunity act caps**

**Date of Enactment or Last Substantive Amendment: ~~[July 1, 2008]~~2010**

**Notice of Continuation: October 9, 2007**

**Authorizing, and Implemented or Interpreted Law: ~~63G-7-604(4)~~[63-30-34(4)(b)]**

## Commerce, Real Estate **R162-106-7** Sales and Listing History

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33398

FILED: 02/22/2010

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This amendment brings the rule into full compliance with Standard 1 of the Uniform Standards of Professional Appraisal Practice.

**SUMMARY OF THE RULE OR CHANGE:** The rule is amended to require appraisers to analyze both the sales and the listing histories of a subject property rather than analyzing only the listing history.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 61-2b-29

### ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** No costs or savings to the state budget are anticipated, as this amendment neither creates nor eliminates a need for the state to oversee a program or enforce a regulation.

◆ **LOCAL GOVERNMENTS:** Local governments do not perform appraisals. Therefore, they are not required to comply with this rule. Nor are they required to enforce it. No impact to the budgets of local governments is anticipated.

◆ **SMALL BUSINESSES:** Small businesses that perform appraisals will have to expand their research to include an analysis of sales history. Doing so will require additional time and effort. However, it is not anticipated that it will require them to subscribe to databases or other information sources

beyond those that the businesses would ordinarily subscribe to in order to perform appraisals generally.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Affected persons are licensed or certified appraisers, who will have to expand their research to include an analysis of sales history. Doing so will require additional time and effort. However, it is not anticipated that it will require them to subscribe to databases or other information sources beyond those that the appraisers would ordinarily subscribe to in order to perform appraisals generally.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** To comply, an affected person must include an analysis of sales history in an appraisal. To do so will require time and effort, but should not impose monetary costs.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** No fiscal impact to businesses is anticipated from this filing, which updates the rule to meet the requirements of the previously adopted Uniform Standards of Professional Appraisal Practice.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at [jjonsson@utah.gov](mailto:jjonsson@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2010

AUTHORIZED BY: Deanna Sabey, Director

---

**R162. Commerce, Real Estate.**

**R162-106. Professional Conduct.**

**R162-106-7. Sales and Listing History.**

In order to comply with Standard 1 of the Uniform Standards of Professional Appraisal Practice (USPAP), appraisers who are licensed or certified under this chapter shall analyze and report the sales and listing history of the subject property for the three years preceding the appraisal if such information is available to the appraiser from a multiple listing service, listing agent(s), or the property owner.

**KEY: real estate appraisals, conduct**

**Date of Enactment or Last Substantive Amendment:** [February 3, 2010]

**Notice of Continuation:** February 15, 2007

**Authorizing, and Implemented or Interpreted Law:** 61-2b-8(5)(c); 61-2b-29

---

## Health, Health Care Financing, Coverage and Reimbursement Policy

### R414-1-28 Cost Sharing

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33414

FILED: 03/01/2010

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to consolidate all copayment policies into one administrative rule and to list American Indians as a cost sharing-exempt group in accordance with the American Recovery and Reinvestment Act of 2009.

**SUMMARY OF THE RULE OR CHANGE:** This change adds a section to the rule text that consolidates all Medicaid copayment policies into one administrative rule and lists American Indians as a cost sharing-exempt group.

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

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There is an annual cost of approximately \$12,441 to the General Fund and \$31,489 in federal dollars that results from the cost sharing exemption for American Indians.

♦ **LOCAL GOVERNMENTS:** There is no impact to local governments because they do not fund or provide Medicaid services.

♦ **SMALL BUSINESSES:** There is no impact to Medicaid providers who work in smaller clinics because the Department will reimburse them the full amount for services to cover the cost of the exemption.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers who work in hospitals, clinics, or other health care centers because the Department will reimburse them the full amount for services to cover the cost of the exemption. On the other hand, American Indians who qualify for the cost sharing exemption

will save some portion of the total amount (\$43,930) calculated under the state budget.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs because there are only savings to an American Indian who qualifies for the cost sharing exemption. In addition, a Medicaid provider does not lose any annual revenue as a result of this change because the Department will reimburse the provider in full to cover the cost of the exemption.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule change implements requirements of the American Recovery and Reinvestment Act of 2009 and will have no fiscal impact on business since the Medicaid program will absorb the cost.

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 04/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2010

AUTHORIZED BY: David Sundwall, MD, Executive Director

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

**R414-1. Utah Medicaid Program.**

**R414-1-28. Cost Sharing.**

- (1) An enrollee is responsible to pay the:
  - (a) hospital a \$220 coinsurance per year;
  - (b) hospital a \$6 copayment for each non-emergency use of hospital emergency services;
  - (c) provider a \$3 copayment for outpatient office visits for physician and physician-related mental health services except that no copayment is due for preventive services, immunizations, health education, family planning, and related pharmacy costs; and
  - (d) pharmacy a \$3 copayment per prescription up to a maximum of \$15 per month.
- (2) The out-of-pocket maximum payment for copayments for physician and outpatient services is \$100 per year.

(3) The provider shall collect the copayment amount from the Medicaid client. Medicaid shall deduct that amount from the reimbursement it pays to the provider.

(4) Medicaid clients in the following categories are exempt from copayment and coinsurance requirements:

- (a) children;
- (b) pregnant women;
- (c) institutionalized individuals;
- (d) American Indians; and
- (e) individuals whose total gross income, before exclusions and deductions, is below the temporary assistance to needy families (TANF) standard payment allowance. These individuals must indicate their income status to their eligibility caseworker on a monthly basis to maintain their exemption from the copayment requirements.

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment:** ~~January 27, 2010~~

**Notice of Continuation:** April 16, 2007

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

**Health, Health Care Financing,  
Coverage and Reimbursement Policy  
R414-10-6  
Copayment Policy**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 33415

FILED: 03/01/2010

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to consolidate the Medicaid copayment policy into one administrative rule.

**SUMMARY OF THE RULE OR CHANGE:** This change removes the specific requirements of the copayment policy and references those requirements to Rule R414-1. (DAR NOTE: The proposed amendment to Rule R414-1 is under DAR No. 33414 in this issue, March 15, 2010, of the Bulletin.)

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

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** The explanation of impact to the state budget is detailed in the companion filing to this proposed change (Rule R414-1).

- ◆ LOCAL GOVERNMENTS: The explanation of budget impact to local governments is detailed in the companion filing to this proposed change (Rule R414-1).
- ◆ SMALL BUSINESSES: The explanation of budget impact to small businesses is detailed in the companion filing to this proposed change (Rule R414-1).
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The explanation of budget impact to persons other than small businesses, businesses, or local government entities is detailed in the companion filing to this proposed change (Rule R414-1).

COMPLIANCE COSTS FOR AFFECTED PERSONS: The explanation of compliance costs for affected persons is detailed in the companion filing to this proposed change (Rule R414-1).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change implements requirements of the American Recovery and Reinvestment Act of 2009 and will have no fiscal impact on business since the Medicaid program will absorb the cost.

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 04/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2010

AUTHORIZED BY: David Sundwall, MD, Executive Director

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

**R414-10. Physician Services.**

**R414-10-6. Copayment Policy.**

[This section establishes copayment policy for physician services for Medicaid clients who are not in any of the federal categories exempted from copayment requirements. is authorized by 42 CFR 447.15 and 447.50, Oct. 1, 2000 ed., which are adopted and incorporated by reference.

~~(1) The Department shall impose a copayment in the amount of \$3 for each physician visit when a non-exempt Medicaid client, as designated on his Medicaid card, receives that physician service. The Department shall limit the out-of-pocket expense of the Medicaid client to \$100 annually.~~

~~(2) The Department shall deduct \$3 from the reimbursement paid to the provider for each physician visit, limited to one per day.~~

~~(3) The provider should collect the copayment amount from the Medicaid client for each physician visit, limited to one per day. The provider may deny service for any client who refuses to make the copayment if the client's medical card indicates copayment is required.~~

~~(4) Medicaid clients in the following categories are exempt from copayment requirements:~~

~~(a) children;~~

~~(b) pregnant women;~~

~~(c) institutionalized individuals;~~

~~(d) individuals whose total gross income, before exclusions or deductions, is below the Temporary Assistance to Needy Families (TANF) standard payment allowance. These individuals must indicate their income status to their eligibility case worker on a monthly basis to maintain their exemption from the copayment requirements.~~

~~(5) Physician services for family planning purposes are exempt from the copayment requirements.]Each Medicaid client is responsible to pay a copayment amount that complies with the requirements of the Utah Medicaid State Plan and Rule R414-1.~~

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment:** [December 28, 2006]2010

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

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

Health, Health Care Financing,  
Coverage and Reimbursement Policy  
**R414-11-8**  
Copayment Policy

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE NO.: 33416

FILED: 03/01/2010

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to consolidate the Medicaid copayment policy into one administrative rule.

**SUMMARY OF THE RULE OR CHANGE:** This change removes the specific requirements of the copayment policy and references those requirements to Rule R414-1. (DAR NOTE: The proposed amendment to Rule R414-1 is under DAR No. 33414 in this issue, March 15, 2010, of the Bulletin.)

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

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** The explanation of impact to the state budget is detailed in the companion filing to this proposed change (Rule R414-1).
- ◆ **LOCAL GOVERNMENTS:** The explanation of budget impact to local governments is detailed in the companion filing to this proposed change (Rule R414-1).
- ◆ **SMALL BUSINESSES:** The explanation of budget impact to small businesses is detailed in the companion filing to this proposed change (Rule R414-1).
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The explanation of budget impact to persons other than small businesses, businesses, or local government entities is detailed in the companion filing to this proposed change (Rule R414-1).

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The explanation of compliance costs for affected persons is detailed in the companion filing to this proposed change (Rule R414-1).

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule change implements requirements of the American Recovery and Reinvestment Act of 2009 and will have no fiscal impact on business since the Medicaid program will absorb the cost.

**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 04/14/2010**

**THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2010**

**AUTHORIZED BY:** David Sundwall, MD, Executive Director

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

**R414-11. Podiatry Services.**

**R414-11-8. Copayment Policy.**

~~[(1) The Department requires a copayment in the amount of \$3 for each podiatry visit when a non-exempt Medicaid client as designated on his Medicaid card, receives a podiatry service. Medicaid limits the out-of-pocket expense of the Medicaid client to \$100 annually, which is a total aggregate cost for all Medicaid services.~~

~~—————(2) Medicaid deducts the copayment amount, limited to one amount per day from the reimbursement paid to the provider for each podiatry visit.~~

~~—————(3) The provider should collect the copayment amount from the Medicaid client for each podiatry visit.~~

~~—————(4) Medicaid clients in the following categories are exempt from copayment requirements:~~

~~—————(a) children;~~

~~—————(b) pregnant women;~~

~~—————(c) institutionalized individuals; and~~

~~—————(d) individuals whose total gross income, before exclusions or deductions, is below the Temporary Assistance to Needy Families (TANF) standard payment allowance.]Each Medicaid client is responsible to pay a copayment amount that complies with the requirements of the Utah Medicaid State Plan and Rule R414-1.~~

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment:** ~~July 14, 2006~~**2010**

**Notice of Continuation:** October 21, 2009

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

**Health, Health Care Financing,  
 Coverage and Reimbursement Policy  
 R414-55-3  
 Copayment Policy**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 33417

FILED: 03/01/2010

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to consolidate the Medicaid copayment policy into one administrative rule.

**SUMMARY OF THE RULE OR CHANGE:** This change removes the specific requirements of the copayment policy and references those requirements to Rule R414-1. (DAR NOTE: The proposed amendment to Rule R414-1 is under DAR No. 33414 in this issue, March 15, 2010, of the Bulletin.)

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

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** The explanation of impact to the state budget is detailed in the companion filing to this proposed change (Rule R414-1).
- ◆ **LOCAL GOVERNMENTS:** The explanation of budget impact to local governments is detailed in the companion filing to this proposed change (Rule R414-1).
- ◆ **SMALL BUSINESSES:** The explanation of budget impact to small businesses is detailed in the companion filing to this proposed change (Rule R414-1).
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The explanation of budget impact to persons other than small businesses, businesses, or local government entities is detailed in the companion filing to this proposed change (Rule R414-1).

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The explanation of compliance costs for affected persons is detailed in the companion filing to this proposed change (Rule R414-1).

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule change implements requirements of the American Recovery and Reinvestment Act of 2009 and will have no fiscal impact on business since the Medicaid program will absorb the cost.

**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 04/14/2010**

**THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2010**

**AUTHORIZED BY:** David Sundwall, MD, Executive Director

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

**R414-55. Medicaid Policy for Hospital Emergency Department Copayment Procedures.**

**R414-55-3. Copayment Policy.**

~~[(1) Medicaid clients in the following categories are exempted from copayment requirements:~~

- ~~(a) children;~~
- ~~(b) pregnant women; and~~
- ~~(c) institutionalized individuals.~~
- ~~(2) Emergency services are exempted from copayment requirements.~~
- ~~(3) Family planning services and supplies are exempted from copayment requirements.~~
- ~~(4) Medicaid shall impose a copayment in the amount of \$6 when a Medicaid client, as designated on his Medicaid card, receives non-emergency services in a Hospital Emergency Department.~~

~~(5) The provider shall collect the copayment amount from the Medicaid client for those services which require copayment. Medicaid shall deduct the \$6 copayment amount from the reimbursement paid to the provider.]Each Medicaid client is responsible to pay a copayment amount that complies with the requirements of the Utah Medicaid State Plan and Rule R414-1.~~

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment:** ~~June 17, 2004~~2010

**Notice of Continuation:** July 18, 2008

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

**Health, Health Care Financing,  
Coverage and Reimbursement Policy**

**R414-60-6**

**Co-payment Policy**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 33418

FILED: 03/01/2010

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to consolidate the Medicaid copayment policy into one administrative rule.

**SUMMARY OF THE RULE OR CHANGE:** This change removes the specific requirements of the copayment policy



and references those requirements to Rule R414-1. (DAR NOTE: The proposed amendment to Rule R414-1 is under DAR No. 33414 in this issue, March 15, 2010, of the Bulletin.)

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

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** The explanation of impact to the state budget is detailed in the companion filing to this proposed change (Rule R414-1).
- ◆ **LOCAL GOVERNMENTS:** The explanation of budget impact to local governments is detailed in the companion filing to this proposed change (Rule R414-1).
- ◆ **SMALL BUSINESSES:** The explanation of budget impact to small businesses is detailed in the companion filing to this proposed change (Rule R414-1).
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The explanation of budget impact to persons other than small businesses, businesses, or local government entities is detailed in the companion filing to this proposed change (Rule R414-1).

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The explanation of compliance costs for affected persons is detailed in the companion filing to this proposed change (Rule R414-1).

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule change implements requirements of the American Recovery and Reinvestment Act of 2009 and will have no fiscal impact on business since the Medicaid program will absorb the cost.

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 04/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2010

AUTHORIZED BY: David Sundwall, MD, Executive Director

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

**R414-60. Medicaid Policy for Pharmacy [Copayment Procedures] Program.**

**R414-60-6. Co[-]payment Policy.**

~~[(1) The Department shall impose a co-payment in the amount of \$3 for each prescription filled when a non-co-payment exempt Medicaid client, as designated on his Medicaid card, receives the prescribed medication.~~

~~[(2) The Department shall deduct \$3 from the reimbursement paid to the provider for each prescription, up to a maximum amount of \$15 per month for each client.~~

~~[(3) It is the providers responsibility to collect the copayment amount from the Medicaid client for those prescriptions that require a copayment.~~

~~[(4) Co-payments do not apply to recipients and services excluded from cost sharing requirements in 42 CFR 447.53 (b).] Each Medicaid client is responsible to pay a copayment amount that complies with the requirements of the Utah Medicaid State Plan and Rule R414-1.~~

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment:** ~~January 4, 2006~~ 2010

**Notice of Continuation:** May 21, 2007

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

**Health, Health Care Financing,  
Coverage and Reimbursement Policy  
R414-200-4  
Cost Sharing**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 33419  
FILED: 03/01/2010

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to update the rule to be consistent with the cost sharing policy found in the 1115 Demonstration Waiver, and to list American Indians as a cost sharing-exempt group in accordance with the American Recovery and Reinvestment Act of 2009.

**SUMMARY OF THE RULE OR CHANGE:** This change updates the cost sharing policy for Non-Traditional Medicaid clients and also lists American Indians as a cost sharing-exempt group.

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

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: The explanation of impact to the state budget is detailed in the companion filing to this proposed change (Rule R414-1). (DAR NOTE: The proposed amendment to Rule R414-1 is under DAR No. 33414 in this issue, March 15, 2010, of the Bulletin.)
- ◆ LOCAL GOVERNMENTS: The explanation of budget impact to local governments is detailed in the companion filing to this proposed change (Rule R414-1).
- ◆ SMALL BUSINESSES: The explanation of budget impact to small businesses is detailed in the companion filing to this proposed change (Rule R414-1).
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The explanation of budget impact to persons other small businesses, businesses, or local government entities is detailed in the companion filing to this proposed change (Rule R414-1).

COMPLIANCE COSTS FOR AFFECTED PERSONS: The explanation of compliance costs for affected persons is detailed in the companion filing to this proposed change (Rule R414-1).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change implements requirements of the American Recovery and Reinvestment Act of 2009 and will have no fiscal impact on business since the Medicaid program will absorb the cost.

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 04/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2010

AUTHORIZED BY: David Sundwall, MD, Executive Director

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

**R414-200. Non-Traditional Medicaid Health Plan Services.**

**R414-200-4. Cost Sharing.**

- (1) An enrollee is responsible to pay to the:
  - (a) hospital a \$220 co-insurance payment for each inpatient hospital admission;
  - (b) hospital a \$6 copayment for each non-emergency use of hospital emergency services;
  - (c) provider a \$3 copayment for outpatient office visits for physician, physician-related, mental health services, physical therapy, and occupational therapy services; except, no copayment is due for preventive services, immunizations and health education; and
  - (d) pharmacy a \$3 copayment per prescription for prescription drugs.
  - (e) physician costs for services that include family planning purposes. Pharmacy products related to family planning purposes are exempt from copayment requirements.
- (2) The out-of-pocket maximum payment for copayments or co-insurance is limited to \$500 per enrollee per calendar year.
- (3) The provider shall collect the copayment amount from the Medicaid client. Medicaid shall deduct that amount from the reimbursement it pays to the provider.
- (4) Medicaid clients in the following categories are exempt from copayment requirements:
  - (a) American Indians; and
  - (b) individuals whose total gross income, before exclusions or deductions, is below the Temporary Assistance to Needy Families (TANF) standard payment allowance. These individuals must indicate their income status to their eligibility case worker on a monthly basis to maintain their exemption from the copayment requirements.

**KEY: Medicaid, non-traditional, cost sharing**

**Date of Enactment or Last Substantive Amendment: ~~July 1, 2009~~2010**

**Notice of Continuation: May 24, 2007**

**Authorizing, and Implemented or Interpreted Law: 26-18**

Money Management Council,  
Administration  
**R628-11**

Maximum Amount of Uninsured Public  
Funds Allowed to Be Held by Any  
Qualified Depository

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 33420

FILED: 03/01/2010

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** In reviewing the changes made earlier, the Council realized that they needed to be notified by the qualified depository in the event that a federal enforcement action was changed or terminated.

**SUMMARY OF THE RULE OR CHANGE:** The change requires a qualified depository that is under a formal enforcement action to notify the Council within a certain amount of time of any change to the action or if the action is terminated.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 51-7-18.1

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** The change does not involve any action by the Council.
- ◆ **LOCAL GOVERNMENTS:** This change does not involve any action by local government entities.
- ◆ **SMALL BUSINESSES:** This rule does not govern small businesses because there are no small businesses act as qualified depositories.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no new fees added that would cost any other organization to comply with this change.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no new fees added that would affect any other persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no fiscal impact on businesses.

**THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:**  
 MONEY MANAGEMENT COUNCIL  
 ADMINISTRATION  
 UTAH STATE CAPITOL COMPLEX  
 350 N STATE ST  
 STE 180  
 SALT LAKE CITY, UT 84114  
 or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Ann Pedroza by phone at 801-538-1883, by FAX at 801-538-1465, or by Internet E-mail at apedroza@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/14/2010**

**THIS RULE MAY BECOME EFFECTIVE ON:** 04/21/2010

**AUTHORIZED BY:** William Wallace , Chair

**R628. Money Management Council, Administration.**

**R628-11. Maximum Amount of Uninsured Public Funds Allowed to Be Held by Any Qualified Depository.**

**R628-11-5. General Rule.**

**A. Maximum Insured Public Funds**

Any qualified depository may accept, receive, and hold deposits of public funds without limitation, if the total amount of deposits from each public treasurer does not exceed the applicable federal depository insurance limit.

**B. Maximum Deposits in Excess of the Federal Insurance Limits For Qualified Utah Depository Institutions**

(1) For all qualified Utah depository institutions which receive a qualified opinion issued by an independent certified public accountant upon completion of an annual audit performed in accordance with generally accepted auditing standards, and for all qualified Utah depository institutions which do not have an audit conducted by an independent certified public accountant, the maximum amount of uninsured public funds which may be held shall be according to the following schedule:

TABLE 1

Ratio of Tier one Capital to Total Assets	Uninsured Public Funds Allotment
5.0% or more	One X Capital
4.00% to 4.99%	.5 X Capital
Less than 4.00%	None

(2) A qualified Utah depository institution which receives an unqualified opinion issued by an independent certified public accountant upon completion of an annual audit performed in accordance with generally accepted auditing standards, may submit the audit report within 100 days of the date of the audit to the Department of Financial Institutions for review and the Commissioner of Financial Institutions must authorize that the ratios of Tier one capital to total assets applicable to the institution submitting the audit for determining the maximum amount of uninsured public funds allowed may be according to the following schedule:

TABLE 2

Ratio of Tier one Capital to Total Assets	Uninsured Public Funds Allotment
5% or more	1.5 X Capital
4.00% to 4.99%	.75 X Capital
Less than 4.00%	None

C. A qualified out-of-state depository institution will be treated as a qualified Utah depository subject to all the provisions of this section in determining its uninsured public funds allotment except that the uninsured public funds allotment will be reduced by multiplying by a factor of total deposits outstanding at Utah branches of the institution divided by the total deposits at the institution. Nothing in R628-11 shall prohibit an out-of-state depository institution from qualifying as a permitted out-of-state depository in accordance with R628-10.

**R628-11-8. Frequency of Adjustment to the Uninsured Public Funds Allotment.**

A. The uninsured public funds allotment for each qualified depository shall be established quarterly by the Council, based on the reports of condition filed with the Commissioner as of the close of the preceding quarter. The uninsured public funds allotments shall be established in accordance with the following:

TABLE 3

Report of Condition As Of:	Effective Date of Allotment
December 31	April 1
March 31	July 1
June 30	October 1
September 30	January 1

B. The Money Management Council may make interim adjustments in a qualified depository's uninsured public funds allotment if material changes in a qualified depository's financial condition have occurred or if there is a formal enforcement action by the federal or state regulator. These interim adjustments may include but are not limited to reducing a qualified depository's uninsured public funds allotment to zero if there is not sufficient collateral to cover uninsured public funds.

C. Any qualified depository that becomes subject to a formal enforcement action by any federal regulator shall notify the Council within twenty-four hours of the publication of the action taken by a federal regulator. Failure of a qualified depository to comply with this requirement to notify the Council may result in action taken by the Council to require collateralization of uninsured public funds in accordance with Section 51-7-18.1(5) and Section R628-11-7.

D. When a formal enforcement action has been modified or terminated by a federal regulator, the qualified depository shall notify the Council within twenty-four hours of the publication of the modification or termination of any action.

**KEY: financial institutions, banking law**  
**Date of Enactment or Last Substantive Amendment: 2010**  
**Notice of Continuation: October 12, 2005**  
**Authorizing, and Implemented or Interpreted Law: 51-7-18.1(2)**

Natural Resources, Parks and  
 Recreation  
**R651-101-1**  
 Authority and Effective Date

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 33408  
 FILED: 02/24/2010

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Although state agency actions relating to concession contracts and leases are not specifically exempted from the Utah Administrative Procedures Act (UAPA), concessionaires and lessors provide Parks a service, and are therefore exempted under Subsection 63-G-4102(2) (g).

**SUMMARY OF THE RULE OR CHANGE:** Utah State Parks' contract provisions, as set forth by Purchasing, allow a concessionaire to request an opportunity to be heard when a contract and or lease is terminated for cause. State agency action relating to contracts for services are exempt from the UAPA, see Subsection 63G-4-102(2) (g). To avoid a possible dispute, however, Section R651-101-1 should be amended for clarification.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 63G-4-102

- ANTICIPATED COST OR SAVINGS TO:**
- ◆ **THE STATE BUDGET:** There is no cost to the state budget associated with this amendment. This amendment is for clarification purposes only.
  - ◆ **LOCAL GOVERNMENTS:** There is no cost to local government associated with this amendment. This amendment is for clarification purposes only.
  - ◆ **SMALL BUSINESSES:** There is no affect to small business as this amendment is for clarification purposes only.
  - ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no costs associated with this amendment. This amendment is for clarification purposes only.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons because of this amendment.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule allows business to have a second hearing in case their concession contract is not renewed.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 NATURAL RESOURCES  
 PARKS AND RECREATION  
 ROOM 116  
 1594 W NORTH TEMPLE  
 SALT LAKE CITY, UT 84116-3154  
 or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2010

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

**R651. Natural Resources, Parks and Recreation.**

**R651-101. Adjudicative Proceedings.**

**R651-101-1. Authority and Effective Date.**

This rule does not apply to an Agency action that is not governed by the Administrative Procedures Act and the laws of the State of Utah, including:

(a) ~~[These rules establish and govern the administrative proceedings before the Division or Director, respectively, as required by Section 63-46b-5.]~~ Subsection 63G-4-102, Administrative Procedures Act; and

(b) ~~[These rules govern all adjudicative proceedings commenced on or after January 1, 1993.]~~ Title 63G, Chapter 6, Utah Procurement Code.

**KEY: administrative procedures**

**Date of Enactment or Last Substantive Amendment:** ~~[1993]~~**2010**

**Notice of Continuation:** July 14, 2005

**Authorizing, and Implemented or Interpreted Law:** ~~63G-4[6b-5]-102~~

Natural Resources, Parks and Recreation

**R651-206-3**

Utah Captain's/Guides License and Utah Boat Crew Permit

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 33422

FILED: 03/01/2010

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To clarify testing and application changes, the Division needs to modify this rule to include any future upgrades to our program by being less specific in rule as to the application process. With the Division's new process, applicants do not have to appear in person at a Division office, they appear before a university testing center proctor.

SUMMARY OF THE RULE OR CHANGE: Several years ago when the Division was updating the Carrying Passengers for Hire rules, the Division did not foresee the opportunity for this program to be accomplished in part over the Internet. A process is now being completed that will increase customer service to license applicants by allowing them to complete the application and testing process without appearing in person at one of our Division offices.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 73-18-4(4)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There is no cost to the state as the program is already in place and the changes are clarifying testing and application procedures online, which will create better customer service for license applicants.

◆ LOCAL GOVERNMENTS: Local government is not affected by this change, because it is a division/state program that is already in place.

◆ SMALL BUSINESSES: Small businesses are not affected by this change, because it is a division program that is already in place and will allow applicant to test at local university testing centers.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is a potential for cost savings to the applicant because the options now allow them to test locally at a wider range of times and locations.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The university will charge them a testing fee. It could vary from university to university. It could be approximately \$10 for the average.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change should benefit business as it allows more flexibility than existing rule allows.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 07/13/2010

AUTHORIZED BY: Mark Forbes, Deputy Director  
(Legislation)

**R651. Natural Resources, Parks and Recreation.**

**R651-206. Carrying Passengers for Hire.**

**R651-206-3. Utah Captain's/Guides License and Utah Boat Crew Permit.**

(1) No person shall operate a vessel engaged in carrying passengers for hire on sole state waters unless that person has in his possession a valid and appropriately endorsed Utah Captain's/Guide's License or Utah Boat Crew Permit issued by the Division, or a valid and appropriately endorsed U.S. Coast Guard Master's License.

(a) When carrying passengers for hire on a motorboat on the waters of Bear Lake, Flaming Gorge or Lake Powell, the operator must have a valid and appropriately endorsed U.S. Coast Guard Master's License.

(b) A Utah Captain's/Guide's License is valid on the waters of Bear Lake, Flaming Gorge, and Lake Powell when the holder is carrying or leading persons for hire on non-motorized vessels.

(c) A Utah Captain's/Guide's License or Utah Boat Crew Permit, with the appropriate whitewater river or other river endorsement, is valid when operating a vessel exiting from a river to the first appropriate and usable take-out or launch ramp on a lake or reservoir.

(2) License and Permit Requirements.

(a) The license or permit must be accompanied by current and appropriate first aid and CPR certificates. A photocopy of both sides of the first aid and CPR certificates is allowed when carrying passengers for hire on rivers.

(b) A license with a "Lake and Reservoir Captain" endorsement is required when carrying passengers for hire on any lake or reservoir.

(c) A license with a "Tow Vessel Captain" endorsement is required when towing or assisting other vessels for hire on waters of this state.

(d) A license with a "Whitewater River guide" endorsement is required when carrying passengers for hire on any river section, including "whitewater," "other," and "flatwater" river designations.

(e) A license with an "Other River Guide" endorsement is required when carrying passengers for hire on any river or river section designated as "other" or "flatwater."

(f) A permit with a "Lake and Reservoir Crew" endorsement is valid only when the holder is accompanied, on board the vessel, by a qualified license holder with a "Lake and Reservoir Captain" endorsement.

(g) A permit with a "Tow Vessel Crew" endorsement is valid only when the holder is accompanied, on board the vessel, by a qualified license holder with a "Tow Vessel Captain" endorsement.

(h) A permit with a "Whitewater River Crew" endorsement is valid only when the holder is accompanied on the river trip, by a qualified license holder with a "Whitewater River Guide" endorsement.

(i) A permit with an "Other River Crew" endorsement is valid only when the holder is accompanied on the river trip, by a qualified license holder with either a "Whitewater River Guide" or "Other River Guide" endorsement.

(j) All Vessel Operator Permits and River Guide 1, 2, 3, and 4 Permits will expire at the end of their current term. Applications for renewal or duplicate of a Vessel Operator or River Guide Permit will be changed to the respective Utah Captain's/Guide's License or Utah Boat Crew Permit.

(k) All Boatman Permits issued by the Division are expired.

(3) Requirements to obtain a Utah Captain's/Guides License.

(a) The applicant shall be at least 18 years of age as of the date the application is received by the Division.

(b) The applicant shall complete the prescribed application form.

(i) Information on the application form must be verified by an agent of the employing/sponsoring outfitting company.

(ii) The completed application form must be signed by the applicant and by an agent of the employing/sponsoring outfitting company.

(iii) For persons who are applying for their first license, the application, testing, and issuance of the license shall be done in ~~[person at a Division designated location]~~ a manner accepted by the Division.

(c) The applicant shall pay a \$50 application fee for the license and first endorsement. A fee of \$10 will be charged for each additional license endorsement.

(d) The applicant shall choose from the four types of license endorsements:

(i) Lake and Reservoir Captain (LCG)

(ii) Tow Vessel Captain (TCG)

(iii) Whitewater River Guide (WCG)

(iv) Other River Guide (OCG)

(e) The applicant shall provide an original proof of current and valid first aid and CPR certifications:

(i) The first aid certificate must be issued for an American Red Cross "Emergency Response" course or an equivalent course from a reputable provider whose curriculum is in accordance with the USDOT First Responder Guidelines or the Wilderness Medical Society Guidelines for Wilderness First Responder.

(ii) The CPR certificate must be issued for an American Red Cross, American Heart Association, American Safety and Health Institute, National Safety Council CPR or BLS course, or an equivalent course from a reputable provider whose curriculum is in accordance with the 2005 Consensus on Science for Cardiopulmonary Resuscitation (CPR) and Emergency Cardiovascular Care (ECC).

(iii) First aid and CPR certificates must include the following information: name, or title of the course; course provider; length of certification; name of the person certified and legible name of the course instructor.

(f) A current Utah Vessel Operator Permit holder, whose permit was issued prior to January 1, 2008, and who is renewing and converting their permit to a Utah Captain's/Guide's License, is exempt from showing proof of completion of a National Association of State Boating Law Administrators (NASBLA) approved boating safety course.

(g) The applicant shall complete a multiple-choice, written examination administered by an agent of the Division:

(i) 80 percent correct is required to pass.

(ii) In relation to the respective endorsement, the examination will have a specific focus on the carrying passengers for hire laws and rules along with general safety, etiquette and courtesy.

(iii) If an applicant fails to pass the exam, there is a seven-day waiting period to re-test.

(iv) Pay a \$15 fee for each re-test.

(h) The applicant shall provide documentation of vessel operation experience that has been obtained within 10 years previous to the date of application.

(i) Lake and Reservoir Captain (LCG) - a minimum of at least 80 hours of actual vessel operation experience. At least 40 of these hours must be obtained while operating the vessel, or a similar vessel, that will be carrying passengers for hire on the specific lake or reservoir on which the operator will be carrying passengers for hire. The applicant shall provide proof of successful completion of a NASBLA approved boating safety course.

(ii) Tow Vessel Captain (TCG) - A minimum of at least 80 hours of actual vessel operation experience. At least 40 of these hours must be obtained while operating the vessel, or a similar vessel, that will be towing for hire on the specific lake or reservoir on which the operator will be towing vessels for hire. The applicant shall provide proof of successful completion of a NASBLA approved boating safety course.

(iii) Whitewater River Guide (WCG) - A minimum of nine river trips on whitewater river sections. At least one of these trips must be obtained while operating the vessel, or similar vessel, on the respective river section on which the operator will be carrying passengers for hire. A Whitewater River Guide endorsement meets the requirements for an Other River Guide endorsement.

(iv) Other River Guide (OCG) - A minimum of six river trips on any river section. At least one of these trips must be obtained while operating the vessel or similar vessel, on the respective river section on which the operator will be carrying passengers for hire.

(4) A Utah Captain's/Guide's License is valid for a term of five years. The license will expire five years from the date of issue, unless suspended or revoked.

(a) A Utah Captain's/Guide's License may be renewed within the six months prior to its expiration.

(b) To renew a Utah Captain's/Guide's License, the applicant must complete the prescribed application form along with adhering to the requirements described above. A current license holder may renew his license in a manner accepted by the Division

(c) The renewed license will have the same month and day expiration as the original license.

(d) A Utah Captain's/Guide's License that has expired shall not be renewed and the applicant shall be required to apply for a new license.

(5) Requirements to obtain a Utah Boat Crew Permit.

(a) The applicant shall be at least 18 years of age as of the date the application is received by the Division.

(b) The applicant shall complete the prescribed application form.

(i) Information on the application form must be verified by an agent of the employing/sponsoring outfitting company.

(ii) The completed application form must be signed by the applicant and by an agent of the employing/sponsoring outfitting company.

(iii) For persons who are applying for their first permit, the application and issuance of the permit shall be done ~~in person, at a Division designated location~~ in a manner accepted by the Division.

(c) The applicant shall pay a \$50 application fee for the original permit and first endorsement. A \$10 fee shall be charged for each additional crew permit endorsement.

(d) The applicant shall choose from the four types of permit endorsements:

(i) Lake and Reservoir Crew (LRC)

(ii) Tow Vessel Crew (TVC)

(iii) Whitewater River Crew (WRC)

(iv) Other River Crew (ORC)

(e) The applicant shall provide original proof of current and valid first aid and CPR certifications:

(i) The first aid certificate must be issued for an American Red Cross "Standard" or "Basic" first aid course, or an equivalent course from a reputable provider.

(ii) The CPR certificate must be issued for an American Red Cross, American Heart Association, American Safety and Health Institute, National Safety Council CPR or BLS course, or an equivalent course from a reputable provider whose curriculum is in accordance with the 2005 Consensus on Science for Cardiopulmonary Resuscitation (CPR) and Emergency Cardiovascular Care (ECC).

(iii) First aid and CPR certificates must include the following information: name, or title of the course; course provider; length of certification; name of the person certified and legible name of the course instructor.

(f) The applicant shall provide documentation of vessel operation experience that has been obtained within the 10 years previous to the date of application.

(i) Lake and Reservoir Crew (LRC) - A minimum of at least 20 hours of actual vessel operation experience. At least 10 of these hours must be obtained while operating the vessel, or a similar vessel, on which the operator will be carrying passengers for hire. The applicant shall provide proof of successful completion of a NASBLA approved boating safety course.

(ii) Tow Vessel Crew (TVC) - A minimum of at least 20 hours of actual vessel operation experience. At least 10 of these hours must be obtained while operating the vessel, or a similar vessel, that will be towing for hire on the specific lake or reservoir on which the operator will be towing vessels for hire. The applicant shall provide proof of successful completion of a NASBLA approved boating safety course.

(iii) Whitewater River Crew (WRC) - A minimum of three river trips on "whitewater" rivers or river sections. At least one of these trips must be obtained while operating the vessel, or similar vessel, on the respective river or river section on which the operator will be carrying passengers for hire. A Whitewater River Crew endorsement meets the requirements for an Other River Crew endorsement.

(iv) Other River Crew (ORC) - A minimum of three river trips on any river or river section. At least one of these trips must be obtained while operating the vessel on a respective river or river section on which the operator will be carrying passengers for hire.

(6) A Utah Boat Crew Permit is valid for a term of five years. The permit will expire five years from the date of issue, unless suspended or revoked.

(a) A Utah Boat Crew Permit may be renewed within the six months prior to its expiration.

(b) To renew a Utah Boat Crew Permit, the applicant must complete the prescribed application form along with the requirements described above. A current permit holder may renew his license in a manner accepted by the Division.

(c) The renewed permit will have the same month and day expiration as the original permit.

(d) A Utah Boat Crew Permit that has expired shall not be renewed and the applicant shall be required to apply for a new permit.

(e) A Utah Boat Crew Permit holder who upgrades to a Utah Captain's/Guide's License, within one year of when the permit was issued, shall receive a \$25 discount on the fee for the Utah Captain's/Guide's License.

(7) In the event a Utah Captain's/Guide's License or a Utah Boat Crew permit is lost or stolen, a duplicate license or permit may be issued with the same expiration date as the original license or permit.

(a) The applicant must complete the prescribed application form.

(b) The fee for a duplicate license or permit is \$15.

(8) Current Utah Captain's/Guide's License and Utah Boat Crew Permit holders shall notify the Division within 30 days of any change of address.

(9) A Utah Captain's/Guide's License or Utah Boat Crew Permit may be suspended, revoked, or denied for a length of time determined by the Division director, or individual designated by the Division director, if one of the following occurs:

(a) The license or permit holder is convicted of three violations of the Utah Boating Act, Title 73, Chapter 18, or rules promulgated thereunder during a three-year period.

(b) The license or permit holder is convicted of driving under the influence of alcohol or any drug while carrying passengers for hire, or refuses to submit to any chemical test that determines blood or breath alcohol content resulting from an incident while carrying passengers for hire;

(c) The license or permit holder's negligence or recklessness causes personal injury or death as determined by due process of the law;

(d) The license or permit holder is convicted of utilizing a private trip permit to carry passengers for hire;

(e) The license or permit holder is convicted of violating a resource protection regulation or public safety regulation in effect by the respective land managing and/or access permitting agency.

(f) The Division determines that the license or permit holder intentionally provided false or fictitious statements or qualifications to obtain the license or permit.

(10) A Utah Captain's/Guide's License or Utah Boat Crew Permit holder shall not carry passengers for hire while operating an unfamiliar vessel or operating on an unfamiliar lake, reservoir, or river section, unless there is a license holder aboard who is familiar

with the vessel and the lake, reservoir, or river section. An exception to this rule allows a license or permit holder to lead passengers for hire on a lake, reservoir, or designated flatwater river section, as long as there is a license holder who is familiar with the vessel and the lake, reservoir, or river section and remains within sight of the rest of the group.

(11) Number of passengers carried for each license or permit holder.

(a) On a vessel that is carrying more than 49 passengers for hire, there shall be at least one license holder and one permit holder or two license holders on board.

(b) On a vessel carrying more than 24 passengers for hire, and operating more than one mile from shore, there shall be an additional license or permit holder on board.

(c) On a vessel carrying passengers for hire, there shall be a minimum of one license or permit holder on board for each passenger deck on the vessel.

(12) Low capacity vessels being led requirements.

(a) On all river sections, except as noted in Subsection (b) below, there shall be at least one qualified license or permit holder for every four low capacity vessels being led in a group.

(b) On lakes, reservoirs, and designated flatwater river sections, there shall be at least one qualified license or permit holder for every six low capacity vessels being led in a group.

(13) A license or permit holder shall not operate a vessel carrying passengers for hire for more than 12 hours in a 24 hour period.

(14) A license or permit holder shall conduct a safety and emergency protocols discussion with passengers prior to the vessel getting underway. This discussion shall include the topics of water safety, use and stowage of safety equipment, wearing and usage of life jackets and initiating the rescue of a passenger(s).

(15) Vessel operators who are licensed or permitted to carry passengers for hire in another state, and possess a state-issued vessel captain's license, or similar license or permit accepted and recognized by the Division, where the state has similar vessel operator licensing provisions, shall not be required to obtain and possess a Utah Captain's/Guide's License or Utah Boat Crew Permit as required by this section.

**KEY: boating, parks**

**Date of Enactment or Last Substantive Amendment:**  
[November 3, 2008]2010

**Notice of Continuation: February 13, 2006**

**Authorizing, and Implemented or Interpreted Law: 73-18-4(4)**

**Natural Resources, Parks and  
Recreation  
R651-219-7  
Equipment Exemptions**



**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 33424

FILED: 03/01/2010

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule needs to be expanded to include other vessels commonly in use that it would be impractical to carry additional equipment on. These vessels include float tubes and standup paddle craft. The section to be deleted from this rule on exterior portions was moved to statute about ten years ago and this deleted rule reference was not caught until recently.

SUMMARY OF THE RULE OR CHANGE: There are many float tube and standup paddle craft used in Utah which without the exemption, technically need to comply with equipment laws. Since the rule regarding riding on exterior portions was changed to statute about ten years ago, the Division can no longer offer this exemption, as a rule cannot exempt someone from complying with a statute.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 73-18-8(6)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There is no cost for this amendment. It is for clarification and compliance purposes. Clarifying the issue with a specific distance will aid the public in compliance and the division with education and enforcement.

◆ **LOCAL GOVERNMENTS:** There is no cost for this amendment. It is for clarification and compliance purposes. Clarifying the issue with a specific distance will aid the public in compliance and the division with education and enforcement.

◆ **SMALL BUSINESSES:** There is no cost for this amendment. It is for clarification and compliance purposes. Clarifying the issue with a specific distance will aid the public in compliance and the division with education and enforcement.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no cost for this amendment. It is for clarification and compliance purposes. Clarifying the issue with a specific distance will aid the public in compliance and the division with education and enforcement.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no cost for this amendment. It is for clarification and compliance purposes. Clarifying the issue with a specific distance will aid the public in compliance and the division with education and enforcement.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be negligible impact on business.

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

NATURAL RESOURCES  
PARKS AND RECREATION  
ROOM 116

1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 07/13/2010

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

**R651. Natural Resources, Parks and Recreation.****R651-219. Additional Safety Equipment.****R651-219-7. Equipment Exemptions.**

(1) Sailboards, float tubes, standup paddlecraft, and personal watercraft are exempt from the following rules: Section R651-219-2 bail buckets; and Section R651-219-3 spare propulsion; ~~and Section R651-225-4 prohibiting riding on exterior surfaces].~~

(2) Vessels owned by the Lagoon Corporation and operated by its employees or customers under the controlled use and confines of the Lagoon Amusement Park waterways are exempt from the following Sections: R651-215-~~44~~9(3), R651-219-2, and R651-219-3.

(3) Vessels owned by the Salt Lake Airport Hilton Inn and operated by its employees or customers under the controlled use and confines of the Salt Lake Airport Hilton Inn waterways are exempt from the following sections: R651-219-2 and R651-219-3.

(4) Racing vessels participating in a sanctioned race may be exempted from certain equipment requirements by the division upon written request to the division. The equipment exemption shall only be in effect the day before and the day of the race if conditions of the exemption are met.

(5) Non-standard, manually propelled vessels such as air mattresses and inner tubes are required to be compliant with life jacket and equipment requirements when: (a) being used on any river, (b) being used over 50 feet from shore, except in a marked swimming area.

**KEY: boating, parks, life jackets**

**Date of Enactment or Last Substantive Amendment:** ~~August 7, 2007~~2010

**Notice of Continuation:** April 18, 2006

**Authorizing, and Implemented or Interpreted Law:** 73-18-8(6)

**Natural Resources, Parks and  
Recreation  
R651-412  
Curriculum Standards for OHV  
Education Programs Offered by Non-  
Division Entities**

**NOTICE OF PROPOSED RULE**

(New Rule)  
DAR FILE NO.: 33421  
FILED: 03/01/2010

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Recent changes in technology and our understanding of the learning styles of today's young people caused us to undertake a serious evaluation of our present teaching practices and programs. We are engaged in a pilot program with several private providers who offer excellent off-highway vehicle (OHV) education programs via the Internet and other media.

SUMMARY OF THE RULE OR CHANGE: The proposed rule is designed to allow the Division to approve alternate OHV education offerings.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-22-30

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: No impact to state budgets. The rule only provides standards for OHV education programs.
- ◆ LOCAL GOVERNMENTS: No impact to local governments. The rule only provides standards for OHV education programs. Local government is not affected by these standards.
- ◆ SMALL BUSINESSES: Will provide an opportunity for small businesses to provide educational programs to the people of the state if they meet these standards. Could be a profitable business opportunity.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Allows for educational choice by those who need to take the mandated OHV safety training.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Cost of training will vary and will be market driven. Currently at about \$30 per student.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule may benefit business as they sell off-road vehicles

since they may not offer the appropriate educational courses as well.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 07/13/2010

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

**R651. Natural Resources, Parks and Recreation.**

**R651-412. Curriculum Standards for OHV Education Programs Offered by Non-Division Entities.**

**R651-412-1. Rulemaking Authority.**

Section 41-22-31 UCA states that the Board shall develop curriculum standards for a comprehensive OHV education program designed to instill the necessary knowledge, attitudes, skills necessary for safe OHV operation, and that the Division shall cooperate with the appropriate public and private organizations in the implementation of this program.

**R651-412-2. Course Approval Process.**

Outside providers wishing to have OHV education courses approved by the Division as adequate for meeting Utah's OHV education standard shall submit a copy of their proposed curricula to the OHV Education Specialist for evaluation. The OHV Education Specialist shall evaluate the proposed curricula against the standard specified in this rule and shall issue a letter of approval to providers who present curriculum packages that meet the standard.

**R651-412-3. Course Completion.**

Individuals who complete a training course approved under this rule shall be issued an OHV Education Certificate in accordance with 41-22-31 UCA.

**R651-412-4. Curriculum Standards.**

At a minimum, all courses approved by the Division shall provide the following course content and shall be presented at a level appropriate for the average fourth grade student. The method of course content delivery is not specified.

(a) Description of OHV riding in Utah.

- (b) Utah State Parks regulatory responsibilities.
- (c) OHV terminology including, but not limited, to: throttle, fuel shut-off valve, brakes, shift leer, engine stop switch, choke, spark arrestor/muffler, headlights, engine, footrest, ignition switch.
- (d) Utah State Laws.
- (e) Riding positions, turning and stopping.
- (f) Hypothermia, wind chill and cold weather survival.
- (g) Riding on different types of terrain.
- (h) Pre-ride inspections.
- (i) Towing a trailer.
- (ii) Crossing roads and highways.
- (iii) Dangers of drugs and alcohol.
- (i) Ethics, responsible riding and trail etiquette.
- (j) Tread Lightly
- (k) Proper safety equipment.
- (l) Snowmobile courses will also include avalanche safety information.
- (m) Any hands-on training provided by an authorized provider shall be conducted in accordance with R651-408(1) and all applicable state and federal law.

**KEY: OHV education standards, parks**  
**Date of Enactment or Last Substantive Amendment: 2010**  
**Authorizing, and Implemented or Interpreted Law: 41-22-30**

**Public Safety, Driver License**  
**R708-39-4**  
**Knowledge Testing**

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 33411  
 FILED: 02/25/2010

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The reason for this change is to strike language that allows the division to offer applicant's a picture test.

**SUMMARY OF THE RULE OR CHANGE:** The division no longer offers the knowledge test in the form of a picture test after reviewing Subsection 53-3-106(1)(c) which requires the division to examine the applicant's ability to read and understand simple English used in highway traffic and directional signs.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 53-3-206

**ANTICIPATED COST OR SAVINGS TO:**

- ♦ **THE STATE BUDGET:** There are no anticipated cost or savings to the State budget because a picture test is no longer offered.
- ♦ **LOCAL GOVERNMENTS:** There is no cost or savings to local government because local government is not involved in testing for or issuing Utah driver licenses.
- ♦ **SMALL BUSINESSES:** There is no cost or savings to small businesses because small businesses are not involved in testing for or issuing Utah driver licenses.
- ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment will not be a cost or savings to persons other than small businesses, businesses, or local government entities because written knowledge tests have always been offered by the division.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. The driver license fee includes any testing that may be required.

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

**THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:**  
 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:**  
 ♦ Jill Laws by phone at 801-964-4469, by FAX at 801-964-4482, or by Internet E-mail at [jlaws@utah.gov](mailto:jlaws@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/14/2010**

**THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2010**

**AUTHORIZED BY:** Nannette Rolfe, Director

**R708. Public Safety, Driver License.**  
**R708-39. Physical and Mental Fitness Testing.**  
**R708-39-4. Knowledge Testing.**

(1) In addition to other tests, the division may test an applicant's knowledge of the state's traffic laws and rules before issuing a driver license. The applicant must complete 80% of the questions correctly to pass the knowledge test.

(2) The division may waive the knowledge test for a renewal if the applicant meets the requirements stated in Section 53-3-214.

(3) The division may administer the knowledge test in the following ways: a written test; an oral test for those who have difficulty understanding and/or reading the English language; ~~a picture test for those who have difficulty understanding questions;~~ a group test; ~~and an open book test so applicant's can learn how to use the Driver License Handbook, [and by any other means deemed necessary by the division to ensure an adequate knowledge and understanding of Utah traffic laws and rules.]~~

**KEY: physical and mental fitness testing**

**Date of Enactment or Last Substantive Amendment:** ~~January 24, 2003~~ 2010

**Notice of Continuation:** October 15, 2007

**Authorizing, and Implemented or Interpreted Law:** 53-3-206

**Workforce Services, Employment  
Development  
R986-900-902  
Options and Waivers**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 33412  
FILED: 02/25/2010

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to make changes to how income for undocumented, ineligible household member is counted and allow the agency to average the number of hours worked by students.

**SUMMARY OF THE RULE OR CHANGE:** The food stamp program allows states the option of not prorating the income of an undocumented, ineligible household member for the gross income test. The Department did not take that option because it makes little difference and it is easier to have fewer tests to apply in determining eligibility for food stamps. The Department has decided to change its policy and take the federal option which allows us to prorate the income for the gross income test. The second change in this filing is to record a waiver the Department expects to receive from the Department of Agriculture and Food which will allow the Department to average the number of hours worked by a student receiving food stamps. The student will need to average 20 hours per week over the 30-day period instead of having 20 hours each week. This is for ease of administration and fairness.

**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:** There are not costs or savings to the state budget as this is a federally-funded program.
- ◆ **LOCAL GOVERNMENTS:** There will be no costs or savings to any local government because this is a federally-funded program.
- ◆ **SMALL BUSINESSES:** There will be no costs to small businesses to comply with these changes because this is a federally-funded program.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no costs of any persons to comply with these changes because there are no costs or fees associated with these proposed changes.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs associated with these changes for any persons because this is a federally-funded program and there are no fees or costs associated with these proposed changes.

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

**THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:**  
WORKFORCE SERVICES  
EMPLOYMENT DEVELOPMENT  
140 E 300 S  
SALT LAKE CITY, UT 84111-2333  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

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

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/14/2010**

**THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2010**

**AUTHORIZED BY:** Kristen Cox, Executive Director

**R986. Workforce Services, Employment Development.  
R986-900. Food Stamps.  
R986-900-902. Options and Waivers.**

The Department administers the Food Stamp Program in compliance with federal law with the following exceptions or clarifications:

(1) The following options not otherwise found in R986-100 have been adopted by the Department where allowed by the applicable federal law or regulation:

(a) The Department has opted to hold hearings at the state level and not at the local level.

(b) The Department does not offer a workfare program for ABAWDs (Able Bodied Adults Without Dependents).

(c) An applicant is required to apply at the local office which serves the area in which they reside.

(d) The Department has opted to use the Simplified Standard Utility Allowance found in 7 USC 2014(e)(7)(C)(iii) as amended by 2002 H.R. 2646 known as Section 4104 of the Farm Bill. The Department has a mandatory standard utility allowance. This means the customer is eligible for an appropriate utility allowance at the time of application and eligibility for the appropriate allowance is re-determined at recertification or if the household moves to a different place of residence. The customer does not have the choice of using "actual" utility expenses. The Department has three utility standards that are updated annually and are available upon request. This Farm Bill option allows households in subsidized housing and households in shared living arrangements to receive the full appropriate utility allowance.

(e) The Department does not use photo ID cards. ID cards are available upon request to homeless, disabled, and elderly clients so that the client is able to use food stamp benefits at a participating restaurant.

(f) The state has opted to provide food stamp benefits through the use of an electronic benefit transfer system known as the Horizon Card.

(g) The Department counts diversion payments in the food stamp allotment calculation.

(h) The Department has opted to exempt individuals from mandatory participation in Food Stamp Employment and Training activities in counties that have been designated as Labor Surplus Areas by the Department of Labor. These counties change each year based on Department of Labor statistics and a list of counties is available from the Department. They are the same counties as referenced in subsection (2)(a) below.

(i) The Department has opted to use Utah's TANF vehicle allowance rules in conjunction with the Food Stamp Program vehicle allowance regulations at 7 CFR 273.8, as authorized by Pub. L. No. 106-387 of the Agriculture Appropriations Act 2001, Food Stamp Act of 1977, 7 USC 2014.

(j) The Department has opted to count all of an ineligible alien's resources and all but a pro rata share of the ineligible alien's income and deductible expenses as provided in 7 CFR 273.11(c)(3)(ii)(A).

(k) A client may waive his or her right to an administrative disqualification hearing.

(l) A client may deduct actual, allowable expenses from self employment, or may opt to deduct 40% of the gross income from self employment to determine net income.

(m) The Department has opted to align food stamps with FEP in determining how to count educational assistance income. That income is counted for food stamps as provided in R986-200-235(3)(q).

(n) The Department has opted to do simplified reporting as provided in 7 CFR 273.12(a)(1)(vii).

(o) The Department has opted to operate a Mini Simplified Food Stamp Program under 7 CFR 273.25. Under this option, a client receiving food stamps and FEP or FEPTP, must participate as required in R986-200-210. A client found ineligible due to non-compliance under R986-200-212 will also be subject to the food stamp sanctions found in 7CFR 273.7(f)(2) unless the client meets an exemption under food stamp regulations.

(p) Effective July 1, 2010, the Department will count the full income of an undocumented, ineligible household member for the gross income test, but that income will be prorated for the net income test and the allotment test. Expenses will continue to be prorated among the eligible household members and the full value of all assets will continue to be counted.

(2) The Department has been granted the following applicable waivers from the Food and Nutrition Service:

(a) Certain Utah counties have been granted a waiver which exempts ABAWDs from the work requirements of Section 824 of PRWORA. The counties granted this waiver change each year based on Department of Labor statistics. A list of counties granted this waiver is available from the Department.

(b) The Department requires that a household need only report changes in earned income if there is a change in source, the hourly rate or salary, or if there is a change in full-time or part-time status. A client is required to report any change in unearned income over \$25 or a change in the source of unearned income.

(c) The Department uses a combined Notice of Expiration and Shortened Recertification Form. Notice of Expiration is required in 7 CFR 273.14(b)(1)(i). The Recertification Form is found under 7 CFR 273.14(b)(2)(i).

(d) The Department conducts the Family Nutrition Education Program for individuals even if they are otherwise ineligible for food stamps.

(e) The Department may deduct overpayments that resulted from an IPV from a household's monthly entitlement.

(f) If the application was received before the 15th of the month and the client has earned income, the certification period can be no longer than six months. The initial certification period may be as long as seven months if the application was received after the 15th of the month.

(g) A household which had its food stamps terminated can be reinstated during the calendar month following the month assistance was terminated without completing a new application if the reason for the termination is fully resolved. The reason for the termination does not matter. Assistance will be prorated to the date on which the client reported that the disqualifying condition was resolved if verification is received within ten days of the report. Assistance is reinstated for the remaining months of the certification period and the certification period must not be changed.

(h) If the Department is unable to obtain proper documentary evidence from an employer, the Department may use Utah quarterly wage data as the primary verification of income when calculating overpayments.

(i) The Department will hold disqualification hearings by telephone.

(j) All initial interviews, and recertification interviews for households certified for 12 months or less, will have their initial or recertification interviews conducted by telephone, rather than in person, unless the household requests an in-person interview or the Department determines that an in-person interview is necessary to resolve issues that would be better facilitated face-to-face.

(k) The federal regulation that requires all interviews be scheduled for a specific date and time is waved for initial telephone interviews. This allows clients to call anytime Monday through Thursday from 7 am to 5:30 p.m. to complete the required initial interview.

(l) To meet the student work exemption, a student enrolled in post-secondary education half-time or more must work an average of 20 hours per week. The work hours must be averaged over the 30 days immediately prior to the date of application or recertification.

**KEY: food stamps, public assistance**

**Date of Enactment or Last Substantive Amendment: ~~October 23, 2008~~2010**

**Notice of Continuation: September 14, 2005**

**Authorizing, and Implemented or Interpreted Law: 35A-3-103**

**End of the Notices of Proposed Rules Section**

## NOTICES OF CHANGES IN PROPOSED RULES

---

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

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

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period, and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends April 14, 2010.

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

From the end of the 30-day waiting period through July 13, 2010, an agency may notify the Division of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses and the agency must start the process over.

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

---

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

Health, Epidemiology and Laboratory  
Services, Environmental Services  
**R392-303**  
Public Geothermal Pools and Bathing  
Places

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR FILE NO.: 33076

FILED: 02/22/2010

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Two modifications were made in response to public comment regarding sampling and flow through in disinfected pools.

**SUMMARY OF THE RULE OR CHANGE:** A requirement for the maximum turnover time is added for geothermal pools that use recirculation to prevent buildup of contaminants. Existing providers already meet this requirement. This is added to make it clear that the flow-through time is acceptable. Although the existing rule gives authority to sample at least once a month, in order to avoid the possibility of confusion, a change is proposed to clarify that local health departments have the authority to sample a geothermal pool for investigative purposes, or unacceptable sample results. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the November 15, 2009, issue of the Utah State Bulletin, on page 46. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** 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:** Any additional sampling would be at the discretion of local health departments. Therefore, this rule does not require additional costs.
- ◆ **SMALL BUSINESSES:** Private pools affected already are in compliance so no additional costs are predicted.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Private pools affected already are in compliance so no additional costs are predicted.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** As all regulated pools are in compliance with these proposed changes, no costs are predicted.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This filing proposes to further modify a proposed rule and permit additional public comment. Adopting this rule, as amended, will avoid potential costs by mitigating current regulatory requirements. The amount of the avoided costs were this rule change not adopted are difficult to quantify.

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](mailto:rmarsden@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/14/2010

THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2010

AUTHORIZED BY: David Sundwall, MD, Executive Director

**R392. Health, Epidemiology and Laboratory Services, Environmental Services.**  
**R392-303. Public Geothermal Pools and Bathing Places.**

.....

**R392-303-16. 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 increase the rate of flow-through, reduce bather load as provided in R392-303-9(2), or both increase the flow rate and reduce the bather load. The owner or operator shall adjust the bather load or the flow-through rate to a level that consistently produces E. Coli or fecal coliform levels less than 63 per 50 milliliters. If any E. Coli or fecal coliform sample exceeds 63 per 50 milliliters, the owner shall keep the pool closed until sample results for the pool are less than 63 per 50 milliliters as required in R392-303-19(3).

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

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

(d) If the operator of a geothermal pool maintains the disinfectant levels, chloramine levels, and pH levels within the values allowed in Table 6 of R392-302 and operates a recirculation system in the pool in compliance with the requirements of R392-302-16, the pool is exempt from the flow-through rate requirements of R392-303-16(3) except the operator shall maintain a flow-through with a maximum turnover time of 48 hours, and shall meet the bacteriologic requirements of R392-302-27(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 method to determine accurate rate-of-flow in gallons per minute. If the rate-of-flow method is a rate-of flow indicator manufactured by a third party, it shall be properly installed and located according to the manufacturer's recommendations. If a field-fabricated rate-of-flow indicator such as a calibrated weir or flume is used, it shall be designed and calibrated under the direction of a licensed professional engineer. The rate-of-flow indicator must be located in a place and positioned where it can be easily read by the operator as required in R392-303-21(2). The Local Health Officer may exempt a geothermal pool or geothermal bathing place

from the requirement for a rate-of-flow indicator if the rate of flow is not adjustable or if there is no practical way to measure flow.

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

#### **R392-303-19. Pool Water Quality.**

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

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

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

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

(3) If the E. coli or fecal coliform levels are found to be greater than the maximum level of 63 per 50 milliliters, the owner or operator shall close the pool until sample results show the level is below 63.

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

(5) The owner or operator of a geothermal pool or geothermal bathing place should maintain the pool water temperature at a maximum of 104 degrees Fahrenheit, 40 degrees Celsius. A geothermal pool or geothermal bathing place that exceeds 104 degrees Fahrenheit, 40 degrees Celsius, at the minimum required turnover rate shall have, and employ when necessary, a method of temperature reduction in the pool or bathing place that maintains the minimum flow-through rate required under R392-303-16(3). An approved method of temperature reduction may include methods such as the introduction of cool water from a source that has been analyzed and approved according to R392-303-5(2) or approved for drinking water by the Utah Division of Drinking Water, or such as the direct cooling of the geothermal

source water by a heat exchanger, or the diversion of the geothermal source water to allow it to cool prior to entering the pool or impoundment. The temperature reduction method shall be capable of reducing the temperature of the pool within 2 hours of activation from the maximum anticipated temperature to below 104 degrees Fahrenheit, 40 degrees Celsius. If the temperature of the source water or cooling rate of the pool is difficult to control, a temperature drift of up to four degrees Fahrenheit, 2.2 degrees Celsius, is allowed if the owner or operator has activated the temperature reduction measure. The owner or operator of a geothermal pool or geothermal bathing place shall not permit bathers to use the pool if the temperature is above 108 degrees Fahrenheit, 42.2 degrees Celsius, except the owner may allow a bather to use a soaking tub

or similar fixture with a volume of 70 gallons or less and a water temperature less than or equal to 110 degrees Fahrenheit, 43.3 degrees Celsius.

.....

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

**Date of Enactment or Last Substantive Amendment:**  
~~2009~~2010

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

---

**End of the Notices of Changes in 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, Health Care Financing,  
Coverage and Reimbursement Policy  
R414-3A  
Outpatient Hospital Services**

**NOTICE OF 120-DAY (EMERGENCY) RULE**

DAR FILE NO.: 33413

FILED: 03/01/2010

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to reduce the reimbursement percentage that the Department pays to outpatient hospitals.

**SUMMARY OF THE RULE OR CHANGE:** This amendment reduces the reimbursement percentage that the Department pays to outpatient hospitals.

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

**REGULAR RULEMAKING WOULD** cause an imminent budget reduction because of budget restraints or federal requirements. This change is prompted by reduced state revenues and subsequent budget reductions.

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** The Department anticipates that this change will reduce annual total expenditures by \$10,889,500. A portion of the reduction will impact the state teaching hospital.

♦ **LOCAL GOVERNMENTS:** There may be some cost to local governments that may own an outpatient hospital. The exact amount is unknown at this time; however, it would be some portion of the estimated savings to the state budget.

♦ **SMALL BUSINESSES:** There will be some cost to outpatient hospital owners. The exact amount is unknown at this time; however, it would be the overall estimated savings to the state budget between this group and local governments.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be some cost to outpatient hospital owners. The exact amount is unknown at this time; however, it would be the overall estimated savings to the state budget between this group and local governments.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There may be some cost to a local government entity that may own an outpatient hospital. The exact amount is unknown at this time; however, it would be some portion of the estimated savings to the state budget. In addition, there will be some cost to a single outpatient hospital owner. The exact amount is unknown at this time; however, it would be the overall estimated savings to the state budget between all outpatient hospital owners and affected local governments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Adoption of this rule change has been openly discussed during the appropriations process. Impacted businesses are aware of this proposal. Fiscal impact is justified to keep expenditures within 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

EFFECTIVE: 03/01/2010

AUTHORIZED BY: David Sundwall, MD, Executive Director

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

##### **R414-3A. Outpatient Hospital Services.**

##### **R414-3A-6. Services.**

(1) Services appropriate in the outpatient hospital setting for adequate diagnosis and treatment of a client's illness are limited to less than 24 hours and encompass medically necessary diagnostic, therapeutic, rehabilitative, or palliative medical services and supplies ordered by a physician or other practitioner of the healing arts.

(2) Outpatient hospital services include:

(a) the service of nurses or other personnel necessary to complete the service and provide patient care during the provision of service;

(b) the use of hospital facilities, equipment, and supplies; and

(c) the technical portion of clinical laboratory and radiology services.

(3) Laboratory services are limited to tests identified by the Centers for Medicare and Medicaid Services (CMS) where the individual laboratory is CLIA certified to provide, bill and receive Medicaid payment.

(4) Cosmetic, reconstructive, or plastic surgery is limited to:

(a) correction of a congenital anomaly;

(b) restoration of body form following an injury; or

(c) revision of severe disfiguring and extensive scars resulting from neoplastic surgery.

(5) Abortion procedures are limited to procedures certified as medically necessary, cleared by review of the medical record, approved by division consultants, and determined to meet the requirements of Utah Code 26-18-4 and 42 CFR 441.203.

(6) Sterilization procedures are limited to those that meet the requirements of 42 CFR 441, Subpart F.

(7) Nonphysician psychosocial counseling services are limited to evaluations and may be provided only through a prepaid mental health plan by a licensed clinical psychologist for:

(a) mentally retarded persons;

(b) cases identified through a CHEC/EPSDT screening; or

(c) victims of sexual abuse.

(8) Outpatient individualized observation of a mental health patient to prevent the patient from harming himself or others is not covered.

(9) Sleep studies are available only in a sleep disorder center accredited by the American Academy of Sleep Medicine.

(10) Hyperbaric Oxygen Therapy is limited to service in a hospital facility in which the hyperbaric unit is accredited as a level one facility by the Undersea and Hyperbaric Medical Society.

(11) Lithotripsy is covered by an all-inclusive fixed fee. This payment covers all hospital and ambulatory surgery-related services for lithotripsy on the same kidney for 90 days, including repeat treatments. Lithotripsy for treatment of the other kidney is a separate service.

(12) Reimbursement for services in the emergency department is limited to codes and diagnoses that are medically necessary emergency services as described in the provider manual. ~~The diagnosis reflecting the primary reason for emergency services must be used and must be one of the first five diagnoses listed on the claim form.~~

(13) Take home supplies and durable medical equipment are not reimbursable.

(14) Prescriptions are not a covered Medicaid service for a client with the designation "Emergency Services Only Program" printed on the Medicaid Identification Card.

##### **R414-3A-9. Reimbursement for Services.**

(1) Except for emergency room, lithotripsy, laboratory and radiology services, the payment level for outpatient hospital claims is based on ~~[77%]~~69% of allowed charges for urban hospitals and ~~[93%]~~83% of allowed charges for rural hospitals.

(2) Payments for emergency room services vary depending on urban and rural designation and whether the service is designed as "emergency" or "non-emergency." The "emergency" designation is based on the principal diagnosis according to ICD-9 Code. Rural hospitals receive ~~[98%]~~88% of charges for emergency services and ~~[65%]~~58% for non-emergency use of the emergency room. Urban hospitals receive ~~[98%]~~88% of charges for emergencies and ~~[40%]~~36% of charges for non-emergency use of the emergency room.

(3) Payment for laboratory~~[-and]~~, radiology, physical therapy, and occupational therapy services provided in an outpatient hospital~~[-to-outpatients]~~ is based on HCPCS codes and an established fee schedule, unless a lesser amount is billed. The fee schedule used to pay physicians is used to establish payment rates.

(4) Billed charges shall not exceed the usual and customary charge to private pay patients.

(5) Payments for all outpatient services are limited to the aggregate annual amount Medicare would pay for the same services as required by 42 CFR 447.321.

(6) Percent of charges reimbursement will be based on provider charges in effect March 1, 2010.

**Notice of Continuation: November 8, 2007**  
**Authorizing, and Implemented or Interpreted Law: 26-1-5;**  
**26-18-2.3; 26-18-3(2); 26-18-4**

---

**KEY: Medicaid**  
**Date of Enactment or Last Substantive Amendment: March 1, 2010**

**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, Records Committee **R35-1a**

### State Records Committee/Definitions

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

DAR FILE NO.: 33399  
FILED: 02/22/2010

#### 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: Pursuant to Section 63G-2-502, the State Records committee may make rules to govern its proceedings. This rule defines the terms used in association with the records committee and is being used effectively. To affirm its continuation according to Subsection 63G-3-305(1), this five year review is submitted.

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 definitions in the rule (R35-1a) are a useful part of understanding the procedures of the State

Records Committee. The State Records Committee is governed by Sections 63G-2-501 and 63G-2-502 and affirms the ongoing value of Rule R35-1a. Therefore, this rule should be continued.

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

ADMINISTRATIVE SERVICES  
RECORDS COMMITTEE  
ARCHIVES BUILDING  
346 S RIO GRANDE  
SALT LAKE CITY, UT 84101-1106  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Susan Mumford by phone at 801-531-3861, by FAX at 801-531-3867, or by Internet E-mail at smumford@utah.gov

AUTHORIZED BY: Patricia Smith-Mansfield, Director

EFFECTIVE: 02/22/2010

---

## Commerce, Occupational and Professional Licensing **R156-17b** Pharmacy Practice Act Rule

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

DAR FILE NO.: 33402  
FILED: 02/23/2010

**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: Title 58, Chapter 17b, provides for the licensure of pharmacists, pharmacy interns, pharmacy technicians, and various classifications of pharmacies. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-17b-201(3) provides that the Utah State Board of Pharmacy duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the Division Director. This rule was enacted to clarify the provisions of Title 58, Chapter 17b, with respect to pharmacists, pharmacy interns, pharmacy technicians, and various classifications of pharmacies.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was originally enacted in May 2005, it has been amended several times. The Division received two written comments, a 03/24/2006 letter from the National Association of Chain Drug Stores and a 03/28/2006 letter from the Utah Food Industry Association, both addressing proposed amendments to Section R156-17b-304 concerning pharmacy technician training. The written comments were reviewed by the Division and Utah State Board of Pharmacy and the recommended changes submitted in both March 2006 letters were not implemented as the Division and Board determined that the current proposed wording was adequate. The Division received the following written comments: 06/10/2008 email from Thomas Holt/Schering-Plough; 06/21/2008 email from Martha Russell/Cardinal Health; 06/26/2008 email from Ellie Joseph; 06/30/2008 email from Steve Hansen/Genentech; and 06/30/2008 letter from National Association of Chain Drug Stores from various interested parties addressing the proposed amendment rule filing. As a result of the written comments and further review by the Division and Utah State Board of Pharmacy, additional proposed amendments were filed in a September 2008 change in a proposed rule filing.

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 as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 17b, with respect to pharmacies, pharmacy interns, pharmacy technicians, and various classifications of pharmacies. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements.

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:

♦ Laura Poe by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at lpoe@utah.gov

AUTHORIZED BY: Mark Steinagel, Director

EFFECTIVE: 02/23/2010

Commerce, Occupational and  
Professional Licensing  
**R156-55d**

Utah Construction Trades Licensing Act  
Burglar Alarm Licensing Rule

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

DAR FILE NO.: 33409

FILED: 02/25/2010

**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: Title 58, Chapter 55, provides for the licensure of alarm companies and alarm company agents. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-55-201(2)(b) provides that one of the Alarm System Security and Licensing Board's duties is to recommend appropriate rules to the Construction Services Commission. Subsection 58-55-103(1)(b) provides that one of the duties of the Construction Services Commission is to make appropriate rules with respect to Title 58, Chapter 55, with the concurrence of the Division Director. This rule was enacted to clarify the provisions of Title 58, Chapter 55, with respect to alarm companies and alarm company agents.



SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in June 2005, no written comments have been received by the Division.

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 as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 55, with respect to alarm companies and alarm company agents. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements.

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](mailto:dmeservy@utah.gov)

AUTHORIZED BY: Mark Steinagel, Director

EFFECTIVE: 02/25/2010

Education, Administration

**R277-501**

Educator Licensing Renewal and  
Timelines

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

DAR FILE NO.: 33397  
FILED: 02/18/2010

**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-6-104 requires the Utah State Board of Education to make rules requiring participation in professional development activities in order for educators to retain Utah licensure, and 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 comment has been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides the procedures and guidance for Utah educators when acquiring professional development as necessary under state law so that an educator can retain educator licensure upon renewal of an educator license. 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](mailto:carol.lear@schools.utah.gov)

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

EFFECTIVE: 02/18/2010

Health, Epidemiology and Laboratory  
Services, Environmental Services

**R392-600**

Illegal Drug Operations  
Decontamination Standards

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

DAR FILE NO.: 33410  
FILED: 02/25/2010

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Section 19-6-906, which sets decontamination and sampling standards and best management practices for the inspection and decontamination of property contaminated by illegal drug operations.

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 Bureau of Epidemiology has received many written comments both supporting and opposing specific aspects of the rule. Many of these comments were in support of revising the rule to be more comprehensive and the establishment of a health-based standard; however, there were also concerns regarding the standard being raised from 0.1 ug/100cm<sup>2</sup> to 1.0 ug/100 cm<sup>2</sup>. After numerous committees were convened, where all stakeholders and scientific disciplines were represented, it was agreed that the results of the research supported the protection of public health at the increased standard. Currently, other changes are being considered to the rule, and with each of these changes there is the possibility that other written or verbal comments may result.

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 fills a crucial niche in the protection of public health from illegal drug operations. This is supported by the fact that, although there has been opposition to specific aspects of the rule, no stakeholder or public entity believes the rule is not needed or has not been successful. The majority of the comments received regarding the rule were not in favor of increasing the standard; however, independent contracted research into the adverse health effects concerning methamphetamine exposure supported this increase. Although the rule is not without flaws, it is the most accurate reflection of the understanding of the science today. The research and knowledge surrounding methamphetamine use and contamination is constantly evolving, and this rule will evolve with the science. Therefore, this rule should be continued.

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](mailto:cmcnaugh@utah.gov)

♦ Ronald Marsden by phone at 801-538-6191, by FAX at 801-538-6564, or by Internet E-mail at [rmarsden@utah.gov](mailto:rmarsden@utah.gov)

AUTHORIZED BY: David Sundwall, MD, Executive Director

EFFECTIVE: 02/25/2010

Health, Health Care Financing,  
Coverage and Reimbursement Policy  
**R414-33C**  
Targeted Case Management for the  
Homeless

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

DAR FILE NO.: 33403

FILED: 02/23/2010

**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 U.S.C. 1396n(g) authorizes targeted case management 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 targeted case management services that are available to homeless 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 Gomez by phone at 801-538-6381, by FAX at 801-237-0785, or by Internet E-mail at [kmcnut@utah.gov](mailto:kmcnut@utah.gov)

AUTHORIZED BY: David Sundwall, MD, Executive Director

EFFECTIVE: 02/23/2010

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 Gomez by phone at 801-538-6381, by FAX at 801-237-0785, or by Internet E-mail at [kmcnut@utah.gov](mailto:kmcnut@utah.gov)

AUTHORIZED BY: David Sundwall, MD, Executive Director

EFFECTIVE: 02/24/2010

**Health, Health Care Financing,  
Coverage and Reimbursement Policy  
R414-61  
Home and Community-Based Services  
Waivers**

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

DAR FILE NO.: 33407  
FILED: 02/24/2010

**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, Section 1915(c) of the Social Security Act authorizes the Department to provide a home and community-based services waiver 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 establishes authority for the Department to administer all Section 1915(c) waivers.

**Insurance, Administration  
R590-140**

**Reference Filings of Rate Service  
Organization Prospective Loss Costs**

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

DAR FILE NO.: 33404  
FILED: 02/23/2010

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 31A-2-201(1) and 31A-2-201(3)(a) provide general rulewriting authority to the commissioner to adopt rules that will implement provisions of the insurance code. This rule focuses on the requirements for a rate service organization filing loss cost factors for property and casualty insurers as specified in Sections 31A-19a-203 and 31A-19a-205.

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 received no written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is important that this rule continue in force. The rule provides instruction to rate service organizations concerning the filings they will use in Utah to be in compliance with the insurance code. It is a key component in the regulation of loss cost filings developed by all rate service organizations, such as the National Council on Compensation Insurance (NCCI) and Insurance Service Office (ISO), licensed to do business in Utah. This rule applies to all lines of property and casualty insurance coverage.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 INSURANCE  
 ADMINISTRATION  
 ROOM 3110 STATE OFFICE BLDG  
 450 N MAIN ST  
 SALT LAKE CITY, UT 84114-1201  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [jwhitby@utah.gov](mailto:jwhitby@utah.gov)

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 02/23/2010

**Natural Resources; Oil, Gas and Mining; Coal**  
**R645-105**  
**Blaster Training, Examination and Certification**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 33394  
 FILED: 02/17/2010

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 40-10-6 and 40-10-6.5 provide for rulemaking authority to the Board of Oil, Gas and Mining as necessary for the regulation of coal mining

operations and reclamation operations. Subsection 40-10-17(2)(o)(iv) specifically requires all blasting operations be conducted by trained and competent persons and rules promulgated on training, examination, and certification of persons engaged in and responsible for blasting.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes blaster training and certification to enhance public and worker safety near coal mining blasting operations. This rule should be continued so Utah's Coal Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 NATURAL RESOURCES  
 OIL, GAS AND MINING; COAL  
 ROOM 1210  
 1594 W NORTH TEMPLE  
 SALT LAKE CITY, UT 84116-3154  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at [steveschneider@utah.gov](mailto:steveschneider@utah.gov)

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 02/17/2010

**Natural Resources; Oil, Gas and Mining; Coal**  
**R645-400**  
**Inspection and Enforcement: Division Authority and Procedures**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 33395  
 FILED: 02/17/2010

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 40-10-6 and 40-10-6.5 provide for rulemaking authority to the Board of Oil, Gas and Mining as necessary for the regulation of coal mining operations and reclamation operations. Sections 40-10-19 and 40-10-22 specifically establish provisions for right of entry upon coal mining operations, authority for inspections, and procedures for violation of permits.

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 should be continued to ensure adequate coal mining inspection and enforcement provisions

are in place to enable a fair and consistent process for issuance and resolution of such matters. This rule should also be continued so Utah's Coal Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

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

NATURAL RESOURCES  
OIL, GAS AND MINING; COAL  
ROOM 1210  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Steve Schneider by phone at 801-538-5328, by FAX at 801-359-3940, or by Internet E-mail at [steveschneider@utah.gov](mailto:steveschneider@utah.gov)

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 02/17/2010

---

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



## NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

---

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules. The extension permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed extensions for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date.

The five-year review extension is governed by Subsections 63G-3-305(4) and (5).

---

### Capitol Preservation Board (State), Administration

#### **R131-8**

#### CPB Facilities and Grounds: Maintenance of Aesthetics

##### **FIVE-YEAR REVIEW EXTENSION**

DAR FILE NO.: 33405

FILED: 02/24/2010

EXTENSION REASON AND NEW DEADLINE: The former Capitol Preservation Board (CPB) Director resigned the end of December 2009. The new Director received notification on 02/22/2010, that this rule will expire on 03/03/2010. The CPB is not scheduled to meet until the end of March or April of 2010, and they need to approve the five-year reviews. Therefore, an extension is necessary to prevent the rule from expiring. New deadline: 07/01/2010.

##### 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
- ◆ Allyson Gamble by phone at 801-537-9156, by FAX at 801-538-3221, or by Internet E-mail at agamble@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
- ◆ Sarah Whitney by phone at 801-538-3074, by FAX at 801-538-3221, or by Internet E-mail at swhitney@utah.gov

AUTHORIZED BY: Allyson Gamble, Acting Executive Director

EFFECTIVE: 02/24/2010

---

### Capitol Preservation Board (State), Administration

#### **R131-9**

#### State Capitol Preservation Board Art Program and Policy

##### **FIVE-YEAR REVIEW EXTENSION**

DAR FILE NO.: 33406

FILED: 02/24/2010

EXTENSION REASON AND NEW DEADLINE: The former Capitol Preservation Board (CPB) Director resigned the end of December 2009. The new Director received notification on 02/22/2010, that this rule will expire on 03/03/2010. The CPB is not scheduled to meet until the end of March or April of 2010, and they need to approve the five-year reviews. Therefore, an extension is necessary to prevent the rule from expiring. New deadline: 07/01/2010.

##### 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
- ◆ Allyson Gamble by phone at 801-537-9156, by FAX at 801-538-3221, or by Internet E-mail at agamble@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
- ◆ Sarah Whitney by phone at 801-538-3074, by FAX at 801-538-3221, or by Internet E-mail at swhitney@utah.gov

AUTHORIZED BY: Allyson Gamble, Acting Executive Director

EFFECTIVE: 02/24/2010

---

**End of the Notices of Five-Year Review Extensions 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

### Capitol Preservation Board (State)

#### Administration

No. 33298 (NEW): R131-14. Parking on Capitol Hill

Published: 01/15/2010

Effective: 02/22/2010

### Commerce

#### Occupational and Professional Licensing

No. 33293 (AMD): R156-47b. Massage Therapy Practice Act Rule

Published: 01/15/2010

Effective: 02/22/2010

### Community and Culture

#### Housing and Community Development, Community Services

No. 33252 (NEW): R202-101. Qualified Emergency Food

Agencies Fund (QEFAF)

Published: 01/01/2010

Effective: 02/22/2010

### Health

#### Health Care Financing, Coverage and Reimbursement Policy

No. 33259 (AMD): R414-306. Program Benefits

Published: 01/01/2010

Effective: 02/22/2010

#### Health Systems Improvement, Licensing

No. 33282 (R&R): R432-31. Transferable Physician Order for Life-Sustaining Treatment

Published: 01/15/2010

Effective: 02/25/2010

### Human Services

#### Administration

No. 33192 (AMD): R495-879. Parental Support for Children in Care

Published: 12/15/2009

Effective: 02/23/2010

#### Recovery Services

No. 33277 (AMD): R527-35. Non-IV-A Fee Schedule

Published: 01/01/2010

Effective: 02/23/2010

### Insurance

#### Administration

No. 33297 (AMD): R590-220. Submission of Accident and

Health Insurance Filings

Published: 01/15/2010

Effective: 02/22/2010

### Labor Commission

#### Occupational Safety and Health

No. 33279 (AMD): R614-7-1. Roofing, Tar-Asphalt Operations

Published: 01/15/2010

Effective: 02/22/2010

### Natural Resources

#### Forestry, Fire and State Lands

No. 33268 (AMD): R652-70-700. Permit Rates

Published: 01/01/2010

Effective: 02/25/2010

No. 33276 (AMD): R652-90-600. Public Review

Published: 01/01/2010

Effective: 02/24/2010

#### Wildlife Resources

No. 33287 (AMD): R657-20. Falconry

Published: 01/15/2010

Effective: 02/22/2010



# 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, 2010, including notices of effective date received through March 01, 2010. 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/>).

---