

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
Filed March 16, 2010, 12:00 a.m. through April 01, 2010, 11:59 p.m.

Number 2010-8  
April 15, 2010

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

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	
Correction to the Filing on Rule R590-160, Administrative Proceedings, Published in the February 1, 2010, Bulletin Under DAR No. 33317.....	1
Legislation Affecting Administrative Rulemaking.....	1
<b>SPECIAL NOTICES</b> .....	<b>3</b>
Health	
Health Care Financing, Coverage and Reimbursement Policy	
Notice for May 2010 Medicaid Rate Changes.....	3
<b>NOTICES OF PROPOSED RULES</b> .....	<b>5</b>
Alcoholic Beverage Control	
Administration	
No. 33469 (Amendment): R81-7-1 Application Guidelines.....	6
No. 33504 (Amendment): R81-10B-1 Application Guidelines.....	7
Commerce	
Real Estate	
No. 33526 (Amendment): R162-2-2 Licensing Procedure.....	8
Governor	
Economic Development, Pete Suazo Utah Athletic Commission	
No. 33503 (Amendment): R359-1-501 Promoter's Responsibilities in Arranging a Contest.....	11
Health	
Health Care Financing, Coverage and Reimbursement Policy	
No. 33515 (Amendment): R414-3A Outpatient Hospital Services.....	13
No. 33528 (Amendment): R414-19A Coverage for Dialysis Services by a Free-Standing State Licensed Dialysis Facility.....	15
No. 33514 (Repeal): R414-33 Targeted Case Management Services.....	17
Insurance	
Administration	
No. 33517 (Amendment): R590-225 Submission of Property and Casualty Rate and Form Filings.....	19
No. 33525 (New Rule): R590-257 Standardized Health Benefit Plan Information Card.....	26
Natural Resources	
Wildlife Resources	
No. 33497 (Amendment): R657-21 Cooperative Wildlife Management Units for Small Game and Waterfowl.....	27
Public Safety	
Fire Marshal	
No. 33513 (Amendment): R710-6 Liquefied Petroleum Gas Rules.....	28
Public Service Commission	
Administration	
No. 33472 (Repeal): R746-331 Determination of Exemption of Mutual Water Corporations.....	35
<b>NOTICES 120-DAY (EMERGENCY) RULES</b> .....	<b>37</b>
Health	
Health Care Financing, Coverage and Reimbursement Policy	
No. 33529: R414-320-7 Creditable Health Coverage.....	37
Insurance	
Administration	
No. 33505: R590-247-3 General Instructions.....	39

**FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION.....41**

Environmental Quality

Drinking Water

No. 33468: R309-100 Administration: Drinking Water Program..... 41

No. 33473: R309-105 Administration: General Responsibilities of Public Water Systems..... 41

No. 33474: R309-110 Administration: Definitions..... 42

No. 33475: R309-115 Administrative Procedures..... 42

No. 33476: R309-200 Monitoring and Water Quality: Drinking Water Standards..... 43

No. 33477: R309-205 Monitoring and Water Quality: Source Monitoring Requirements..... 43

No. 33478: R309-210 Monitoring and Water Quality: Distribution System Monitoring Requirements..... 44

No. 33479: R309-215 Monitoring and Water Quality: Treatment Plant Monitoring Requirements..... 45

No. 33480: R309-220 Monitoring and Water Quality: Public Notification Requirements..... 45

No. 33481: R309-225 Monitoring and Water Quality: Consumer Confidence Reports..... 46

No. 33484: R309-300 Certification Rules for Water Supply Operators..... 46

No. 33485: R309-305 Certification Rules for Backflow Technicians..... 47

No. 33501: R309-352 Capacity Development Program..... 47

No. 33482: R309-400 Water System Rating Criteria..... 48

No. 33483: R309-405 Compliance and Enforcement: Administrative Penalty..... 49

No. 33486: R309-500 Facility Design and Operation: Plan Review, Operation and Maintenance Requirements..... 49

No. 33487: R309-505 Facility Design and Operation: Minimum Treatment Requirements..... 50

No. 33488: R309-510 Facility Design and Operation: Minimum Sizing Requirements..... 50

No. 33489: R309-515 Facility Design and Operation: Source Development..... 51

No. 33490: R309-520 Facility Design and Operation: Disinfection..... 51

No. 33491: R309-525 Facility Design and Operation: Conventional Surface Water Treatment..... 52

No. 33492: R309-530 Facility Design and Operation: Alternate Surface Water Treatment Methods..... 52

No. 33493: R309-535 Facility Design and Operation: Miscellaneous Treatment Methods..... 53

No. 33494: R309-540 Facility Design and Operation: Pump Stations..... 53

No. 33495: R309-545 Facility Design and Operation: Drinking Water Storage Tanks..... 54

No. 33496: R309-550 Facility Design and Operation: Transmission and Distribution Pipelines..... 55

No. 33464: R309-600 Source Protection: Drinking Water Source Protection for Ground Water Sources..... 55

No. 33465: R309-605 Source Protection: Drinking Water Source Protection for Surface Water Sources..... 56

No. 33500: R309-700 Financial Assistance: State Drinking Water State Revolving Fund (SRF) Loan Program..... 56

No. 33502: R309-705 Financial Assistance: Federal Drinking Water Project Revolving Loan Program..... 57

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 33466: R414-309 Medicare Drug Benefit Low-Income Subsidy Determination..... 57

Natural Resources

Forestry, Fire and State Lands

No. 33537: R652-120 Wildland Fire..... 58

Public Safety

Driver License

No. 33511: R708-32 Uninsured Motorist Database..... 58

No. 33518: R708-36 Disclosure of Personal Identifying Information in MVRs..... 59

No. 33520: R708-37 Certification of Licensed Instructors of Commercial Driver Training Schools or Testing Only Schools to Administer Driving Skills Tests..... 60

No. 33519: R708-40 Driving Simulators..... 60

No. 33512: R708-41 Requirements for Acceptable Documentation, Storage and Maintenance..... 61

---

School and Institutional Trust Lands	
Administration	
No. 33530: R850-21 Oil, Gas and Hydrocarbon Resources.....	61
No. 33531: R850-22 Bituminous-Asphaltic Sands and Oil Shale Resources.....	62
No. 33532: R850-23 Sand, Gravel and Cinders Permits.....	62
No. 33533: R850-24 General Provisions: Mineral and Material Resources, Mineral Leases and Material Permits.....	63
No. 33534: R850-25 Mineral Leases and Materials Permits.....	64
No. 33535: R850-26 Coal Leases.....	64
No. 33536: R850-27 Geothermal Steam.....	65
Workforce Services	
Unemployment Insurance	
No. 33521: R994-204 Covered Employment.....	65
No. 33522: R994-205 Exempt Employment.....	66
No. 33523: R994-206 Agricultural Labor.....	66
No. 33524: R994-304 Special Provisions Regarding Transfers of Unemployment Experience and Assigning Rates.....	67
<b>NOTICES OF RULE EFFECTIVE DATES.....</b>	<b>69</b>
<b>RULES INDEX.....</b>	<b>71</b>



## EDITOR'S NOTES

---

### **Correction to the Filing on Rule R590-160, Administrative Proceedings, Published in the February 1, 2010, Bulletin Under DAR No. 33317**

The Department of Insurance published an amendment to Rule R590-160 in the February 1, 2010, issue of the *Utah State Bulletin* (2010-03, pg. 46) under DAR No. 33317. Due to an error, Section R590-160-7 was not included but did have a change in the text. The change is nonsubstantive and is being processed under DAR No. 33467 as a nonsubstantive change. Nonsubstantive changes are not printed in the *Utah State Bulletin* but the text is being included in this notice.

The text is reproduced below.

#### **R590. Insurance, Administration. R590-160. Administrative Proceedings.**

.....

#### **R590-160-7. Rules Applicable to Informal Proceedings.**

(1) An informal proceeding may be commenced by the department by issuing a Notice of Informal Proceeding and Order in cases when it appears to the department that~~[-there are]~~ no disputed issues exist or in matters of technical or minor violation of the code. The Order shall be based upon the information contained in the files of the department, or known to the commissioner, and shall constitute a "proposed order" that shall become final 15 days after delivery or mailing to the respondent unless a written request for a hearing is received in the offices of the department prior to the expiration of 15 days.

(2) Failure to request a hearing in an informal adjudicative proceeding will be considered a failure to exhaust administrative remedies.

(3) When a hearing is requested in an informal adjudicative proceeding, including a request for a hearing upon the denial of an application for a license or certificate of authority, or a petition to remove an existing disability, or an order disapproving a rate or prohibiting the use of a form, a Notice of Hearing shall be issued stating the matters to be decided and giving notice of the date, time and place of an informal hearing to be held.

(4) An informal hearing shall not be of record. At an informal hearing, the presiding officer may receive testimony, proffers of evidence, affidavits and arguments relating to the issues to be decided and may issue subpoenas requiring the attendance of witnesses or the production of necessary evidence.

(5) At the close of the informal hearing, the presiding officer shall issue an order based upon evidence in the department files and the evidence or proffers of evidence received at the informal hearing. The order shall be final on the date the order is issued unless otherwise provided in the order.

.....

#### **KEY: insurance**

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

**Notice of Continuation: November 25, 2003**

**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 63G-4-102; 63G-4-203**

*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).*

## Legislation Affecting Administrative Rulemaking

During the 2010 General Session, the Legislature passed the following bills that affect rulemaking.

### S.B. 31 Administrative Rules Reauthorization

S.B. 31, entitled "Administrative Rules Reauthorization", is the legislation required annually by Subsection 63G-3-502(3). The bill is sponsored by Sen. Howard Stephenson, and carries a recommendation from the Legislature's Administrative Rules Review Committee.

The bill reauthorized all administrative rules except Rule R495-888, entitled "Department of Human Services Related Parties Conflict Investigation Procedure." Rep. R. Lockhart sponsored H.B. 86, entitled "Department of Human Services – Review and Oversight," which clarifies the Legislature's intent related to the investigation procedures currently addressed by Rule R495-888.

The Governor signed S.B. 31 on 03/23/2010. The bill goes into effect on 05/01/2010 pursuant to section 2 of the bill.

More information about S.B. 31 is available from the Legislature's web site at <http://le.utah.gov/~2010/bills/sbillint/sb0031s01.htm>.

### H.B. 402 Department of Administrative Services Modifications

An "internal service fund agency" is defined as "an agency that provides goods or services to other agencies of state government or to other governmental units on a capital maintenance and cost reimbursement basis, and which recovers costs through interagency billings." (Section 63J-1-410)

H.B. 402, sponsored by Rep. S. Clark, authorizes the Department of Administrative Services (DAS) to operate all of its divisions as internal service fund (ISF) agencies. Under current law (Section 63A-1-114), only two of the department's divisions function entirely as internal service funds. Two other divisions operate portions of their programs as internal service funds.

Under the direction of Kimberly K. Hood, Executive Director, DAS has developed a four-year implementation plan.

- \* Year 1 (FY 2010) Pass enabling legislation in the General Session 2010 to explore the appropriateness of expanding the ISF model to other divisions within DAS

- \* Year 2 (FY 2011): Study and identify products and services in divisions where it may be appropriate to expand the rate approval process; submit new rates for processing and approval

- \* Year 3 (FY 2012) Implement new rates approved by the Governor's Office and the Legislature; continue study to identify products and services where it may be appropriate to expand the rate approval process; process new rates

- \* Year 4 (FY 2013): Expand the rate approval process to other divisions and include products and services deemed appropriate (if needed)

Each year includes steps that require annual evaluations, extensive research and data collection, outreach to affected agencies and other customers, as well as input from them on rate setting, level of service, and utilization. The mantra is "go slow, be careful, rely on the data."

H.B. 402 includes an amendment to the Utah Administrative Rulemaking Act, in Section 63G-3-402, that provides:

(m) if the Department of Administrative Services operates the division as an internal service fund agency in accordance with Section 63A-1-109.5, [the division shall] submit to the Rate Committee established in Section 63A-1-114: (i) the proposed rate and fee schedule as required by Section 63A-1-114; and (ii) other information or analysis requested by the Rate Committee....

H.B. 402 was signed by the Governor on 03/29/2010. It goes into effect on 05/11/2010. More information about H.B. 402 is available from the Legislature's web site at <http://le.utah.gov/~2010/htmldoc/hbillhtm/HB0402.htm>.

*Questions about these bills may be directed to Ken Hansen (801-538-3777).*



# **SPECIAL NOTICES**

---

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

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

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

**End of the Special Notices Section**



## NOTICES OF PROPOSED RULES

---

A state agency may file a **PROPOSED RULE** when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between March 16, 2010, 12:00 a.m., and April 01, 2010, 11:59 p.m. are included in this, the April 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 May 17, 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 August 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**

**Alcoholic Beverage Control,  
Administration  
R81-7-1  
Application Guidelines**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 33469  
FILED: 03/22/2010

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule amendment is filed to implement the Alcoholic Beverage Commission's (Commission) desire to deal with applicants possibly using single event permits in an attempt to avoid state retail alcohol licensing.

**SUMMARY OF THE RULE OR CHANGE:** The Commission is concerned with applicants using single event permits to avoid state retail alcohol licensing. To ensure compliance, the rule amendment clarifies the factors the Commission may consider when issuing single event permits.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 32A-1-107

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** None--This rule amendment clarifies the factors the Commission may consider when issuing single event permits. There are no costs or savings involved in this rule amendment.
- ◆ **LOCAL GOVERNMENTS:** None--Single event permits are issued by the Department of Alcoholic Beverage Control and not local governments.
- ◆ **SMALL BUSINESSES:** None--Many of the applicants operate small businesses. The single event permit fees remain unchanged and should not affect small businesses. This rule amendment merely clarifies the factors the Commission may consider to ensure applicants are not attempting to avoid state retail alcohol licensing requirements.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--There are no costs or savings for other persons as of result of this amendment because they do not apply for single event permits.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** None--Since the application fee remains unchanged, businesses should experience no additional compliance costs.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** It has been the Commission's practice to consider the factors

outlined in this rule amendment. There will not be a fiscal impact on businesses as the application fee remains unchanged.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
ALCOHOLIC BEVERAGE CONTROL  
ADMINISTRATION  
1625 S 900 W  
SALT LAKE CITY, UT 84104-1630  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Vickie Ashby by phone at 801-977-6801, by FAX at 801-977-6889, or by Internet E-mail at vickieashby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/17/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/24/2010

AUTHORIZED BY: Dennis Kellen, Director

**R81. Alcoholic Beverage Control, Administration.**

**R81-7. Single Event Permits.**

**R81-7-1. Application Guidelines.**

(1) A single event permit application for the purpose of conducting a convention, civic or community enterprise, shall be included in the agenda of the monthly commission meeting for consideration for issuance of a single event permit, when the requirements of Section 32A-7 have been met, and a completed application has been received by the department. "Conducting" as used herein means the conduct, management, control or direction of an event. The organization directly benefiting from the event, monetarily or otherwise, shall be deemed to be conducting the event.

(2) Pursuant to Section 32A-7-101, the commission may grant single event permits to a bona fide partnership, corporation, limited liability company, church, political organization, or incorporated association, and to each bona fide and recognized subordinate lodge, chapter or local unit of any qualifying parent entity. To be a "bona fide" and "recognized" subordinate or local entity, the applicant must have been in existence for at least one year prior to the date of the application and must furnish proof thereof.

(3) If the applicant is a bona fide incorporated association, corporation, or a separately incorporated subordinate lodge, chapter or local unit thereof, the applicant shall submit a copy of its certificate and articles of incorporation from the state, which reflect that the applicant has been in existence for at least one year prior to date of application.

(4) If the applicant is a bona fide limited liability company, the applicant shall submit a copy of its limited liability company certificate of existence from the state, which reflects that the applicant has been in existence for at least one year prior to date of application.

(5) If the applicant is a bona fide church, political organization, or recognized subordinate chapter or local unit thereof, the applicant shall submit proof of its tax exempt status as provided by the Internal Revenue Service.

(6) Any subordinate or local entity of a parent entity must also establish that it is duly "recognized" by the parent entity by providing written verification of its "recognized" status such as a letter from, or bylaws of the parent entity. The subordinate or local unit shall also furnish proof that the parent entity qualifies under sections (1), (2), (3), (4), and (5) of this rule. These requirements shall not apply in situations where the subordinate or local unit is separately incorporated.

(7) Single event permits are issued to state agencies, political subdivisions of the state, and organizations listed in Subsection (2) that are conducting a convention, civic or community enterprise. Single event permits may not be issued to or obtained by an entity or organization for the purpose of avoiding or attempting to avoid the requirement of state retail alcohol licensing.

To ensure compliance with this Subsection (7), the commission may consider factors such as:

- (a) the purpose of the entity or organization;
- (b) the nature and purpose of the event;
- (c) the type of entertainment, if any, at the event;
- (d) the location of the event;
- (e) the frequency of events held at the same location;
- (f) whether the location is government owned and operated; and
- (g) the extent to which the event:
  - (i) benefits the community;
  - (ii) is held for charitable purposes; or
  - (iii) is held for the profit of the entity or organization.

~~(7)~~(8) Calendar year is defined as January 1 through December 31.

~~(8)~~(9) The single event permit bond, as required by Section 32A-7-105, shall not be released back to the single event permittee until the permittee provides to the department the required data regarding liquor purchases, sales, prices charged, and net profit generated at the event for which the single event permit was issued.

~~(9)~~(10) If an organization or individual other than the one applying for the single event permit posts the \$1,000 bond required by Section 32A-7-105, an affidavit must be submitted attesting that the \$1,000 bond is for the permittee's compliance with the provisions of the Act and the commission rules, and that if a violation occurs at the single event, the bond may be forfeited.

~~(10)~~(11) The commission may authorize multiple sales outlets on different properties under one single event permit, provided that each site conforms to location requirements of Section 32A-7. The commission may authorize simultaneous sale and consumption hours at multiple sales outlets.

**KEY: alcoholic beverages**

**Date of Enactment or Last Substantive Amendment: ~~June 27, 2008~~2010**

**Notice of Continuation: August 24, 2006**

**Authorizing, and Implemented or Interpreted Law: 32A-1-107**

**Alcoholic Beverage Control,  
Administration  
R81-10B-1  
Application Guidelines**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 33504  
FILED: 03/24/2010

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule amendment is filed to implement the Alcoholic Beverage Commission's (Commission) desire to deal with applicants possibly using temporary special event beer permits in an attempt to avoid state retail alcohol licensing.

**SUMMARY OF THE RULE OR CHANGE:** The Commission is concerned with applicants using temporary special event beer permits to avoid state retail alcohol licensing. To ensure compliance, the rule amendment clarifies the factors the Commission may consider when issuing temporary special event beer permits.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 32A-1-107

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** None--This rule amendment clarifies the factors the Commission may consider when issuing temporary special event beer permits. There are no costs or savings involved in this rule amendment.
- ◆ **LOCAL GOVERNMENTS:** None--Temporary special event beer permits are issued by the Department of Alcoholic Beverage Control and not local governments.
- ◆ **SMALL BUSINESSES:** None--Many of the applicants operate small businesses. The temporary special event beer permit fees remain unchanged and should not affect small businesses. This rule amendment merely clarifies the factors the commission may consider to ensure applicants are not attempting to avoid state retail alcohol licensing requirements.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--There are no costs or savings for other persons as a result of this amendment because they do not apply for temporary special event beer permits.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** None--Since the application fee remains unchanged, businesses should experience no additional compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It has been the Commission's practice to consider the factors outlined in this rule amendment. There will not be a fiscal impact on businesses as the application fee remains unchanged.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 ALCOHOLIC BEVERAGE CONTROL  
 ADMINISTRATION  
 1625 S 900 W  
 SALT LAKE CITY, UT 84104-1630  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Vickie Ashby by phone at 801-977-6801, by FAX at 801-977-6889, or by Internet E-mail at vickieashby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/17/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/24/2010

AUTHORIZED BY: Dennis Kellen, Director

- ~~(i) benefits the community;~~
  - ~~(ii) is held for charitable purposes; or~~
  - ~~(iii) is held for the profit of the entity or organization.~~
- ~~[(3)](4)(a) The temporary special event beer permit bond, as required by Section 32A-10-305, shall not be released back to the permittee sooner than 30 days following the event.~~
- (b) If an organization or individual other than the one applying for the permit posts the bond, an affidavit must be submitted attesting that the bond is for the permittee's compliance with the provisions of the Act and the commission rules, and that if a violation occurs at the event, the bond may be forfeited.
- ~~[(4)](5) The commission may authorize multiple sales outlets on different properties under one temporary special event beer permit, provided that each site conforms to location requirements of Section 32A-10-301. The commission may authorize simultaneous sale and consumption hours at multiple sales outlets.~~

**KEY: alcoholic beverages**  
**Date of Enactment or Last Substantive Amendment:** ~~August 1, 2003~~ **2010**  
**Notice of Continuation: July 31, 2008**  
**Authorizing, Implemented, or Interpreted Law: 32A-1-107; 32A-10**

**R81. Alcoholic Beverage Control, Administration.**  
**R81-10B. Temporary Special Event Beer Permits.**  
**R81-10B-1. Application Guidelines.**

(1) A temporary special event beer permit application shall be included in the agenda of the monthly commission meeting for consideration for issuance of the permit, when the requirements of 32A-10-302, -303, and -305 have been met, and a completed application has been received by the department.

(2) The sale of beer under a series of permits issued to the same person may not exceed a total of 90 days in any one calendar year. "Calendar year" means January 1 through December 31.

(3) Pursuant to 32A-10-301, a temporary special event beer permit may be issued to a person for the sale of beer for on-premise consumption at a temporary special event that does not last longer than 30 days. The sale of beer under a series of permits issued to the same person may not exceed a total of 90 days in any one calendar year. However, temporary special event beer permit may not be issued or obtained for the purpose of avoiding or attempting to avoid the requirement of obtaining a state on-premise beer license under 32A-10-201. To ensure compliance with this Subsection (3), the commission may consider factors such as:

- (a) the purpose of the entity or organization;
- (b) the nature and purpose of the event;
- (c) whether the event is a convention, community or civic enterprise;
- (d) the type of entertainment, if any, at the event;
- (e) the location of the event;
- (f) the frequency of events held at the same location;
- (g) whether the location is government owned and operated; and
- (h) the extent to which the event;

Commerce, Real Estate  
**R162-2-2**  
 Licensing Procedure

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 33526  
 FILED: 03/31/2010

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Real Estate Commission has determined that a plea in abeyance to a criminal charge should not be viewed as being equivalent to a conviction when considering the criminal history of an applicant for licensure.

**SUMMARY OF THE RULE OR CHANGE:** An applicant for a new license will no longer be automatically barred from licensure upon evidence that the applicant has, within the three-year period preceding the date of application, entered a plea in abeyance to a misdemeanor involving fraud, misrepresentation, theft, or dishonesty. The Division and Commission will be able to exercise discretion under Subsection R162-2-2(2.2.11) in reviewing such applications. An applicant for a renewed license will no longer be automatically barred from licensure upon evidence that the applicant has, since the last date of licensure, entered a plea in abeyance to a felony charge that does not involve fraud,

misrepresentation, or deceit. The Division and Commission will be able to exercise discretion under Subsection R162-2-2(2.2.11) in reviewing such applications.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2.5.5(1)

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: The Division of Real Estate already has in place staff and resources to review applications of individuals with criminal history. No impact is anticipated by asking state staff to apply a slightly different analysis to a criminal history involving a plea in abeyance. By eliminating an automatic bar to licensure, the Division may issue licenses to more applicants, generating additional income for the state.
- ◆ LOCAL GOVERNMENTS: Local governments do not apply for licensure with the Division, nor do they process license applications. This change should have no impact on local governments.
- ◆ SMALL BUSINESSES: Criminal history disclosure is not required of small businesses that register with the Division. This rule has never affected small business, and this amendment will have no impact.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The costs of applying for a license remain the same. This rule amendment simply adjusts the scheme by which those applications are reviewed. There will be no costs to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance is required. There are no compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing relaxes the automatic disqualification provision resulting from the criminal record of applicants, as described in the rule summary. The amendment could be a cost savings to license applicants.

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 05/17/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/24/2010

AUTHORIZED BY: Deanna Sabey, Director

**R162. Commerce, Real Estate.**

**R162-2. Exam and License Application Requirements.**

**R162-2-2. Licensing Procedure.**

2.2. Within 90 days after successful completion of the exam, the applicant shall return to the Division each of the following:

2.2.1. A report of the examination indicating that both portions of the exam have been passed within a six-month period of time.

2.2.2. The license application form required by the Division. The application form shall include the licensee's business and home address. A post office box without a street address is unacceptable as a business or home address. The licensee may designate any address to be used as a mailing address.

2.2.3. The non-refundable fees which include the appropriate license fee as authorized by Section 61-2-9(5) and the Recovery Fund fee as authorized by Section 61-2a-4.

2.2.4. Documentation indicating successful completion of the required education taken within the year prior to licensing. If the applicant has been previously licensed in another state which has substantially equivalent licensing requirements, the applicant may apply to the Division for a waiver of all or part of the educational requirement.

(a) Until December 31, 2009, a candidate for the license of sales agent shall successfully complete 90 classroom hours of approved study in principles and practices of real estate.

(b)(i) Beginning January 1, 2010, a candidate for the license of sales agent shall successfully complete 120 hours of approved study in principles and practices of real estate.

(ii) An applicant for licensure may complete 90 hours of prelicense education only if:

(A) the applicant began the prelicense education program prior to January 1, 2010; and

(B) the applicant submits the completed education prior to March 31, 2010.

(c) Experience shall not satisfy the education requirement. Membership in the Utah State Bar shall waive this requirement. The Division may waive all or part of the educational requirement by virtue of equivalent education taken while completing a college undergraduate or postgraduate degree program, regardless of the date of the degree, or by virtue of other equivalent real estate education if the other real estate education was taken within 12 months prior to application.

(d) Candidates for the license of associate broker or principal broker shall successfully complete 120 classroom hours of study curriculum approved by the Commission consisting of 45 hours of broker principles, 45 hours of broker practices, and 30 hours of Utah law and testing. Experience shall not satisfy the education requirement. The Division may waive all or part of the educational requirement by virtue of equivalent education taken while completing a college undergraduate or postgraduate degree program, regardless

of the date of the degree, or by virtue of other equivalent real estate education if the other real estate education was taken within 12 months prior to application.

2.2.5. The principal broker and associate broker applicant shall submit the forms required by the Division documenting a minimum of three years licensed real estate experience and a total of at least 60 points accumulated within the five years prior to licensing. A minimum of two years (24 months) and at least 45 points shall be accumulated from Tables I and/or II. The remaining 15 points may be accumulated from Tables I, II or III.

TABLE I - REAL ESTATE TRANSACTIONS

RESIDENTIAL - points can be accumulated from either the selling or the listing side of a real estate closing:	
(a) One unit dwelling	2.5 points
(b) Two- to four-unit dwellings	5 points
(c) Apartments, 5 units or over	10 points
(d) Improved lot	2 points
(e) Vacant land/subdivision	10 points
COMMERCIAL	
(f) Hotel or motel	10 points
(g) Industrial or warehouse	10 points
(h) Office building	10 points
(i) Retail building	10 points
(j) Leasing of commercial space	5 points

TABLE II - PROPERTY MANAGEMENT

RESIDENTIAL	
(a) Each unit managed	.25 pt/month
COMMERCIAL - hotel/motel, industrial/warehouse, office, or retail building	
(b) Each contract OR each separate property address or location for which licensee has direct responsibility	1 pt/month

2.2.6. The Principal Broker may accumulate additional experience points by having participated in real estate related activities such as the following:

TABLE III - OPTIONAL

Real Estate Attorney	1 pt/month
CPA-Certified Public Accountant	1 pt/month
Mortgage Loan Officer	1 pt/month
Licensed Escrow Officer	1 pt/month
Licensed Title Agent	1 pt/month
Designated Appraiser	1 pt/month
Licensed General Contractor	1 pt/month
Bank Officer in Real Estate Loans	1 pt/month
Certified Real Estate Prelicensing Instructor	.5 pt/month

2.2.7. If the review of an application has been performed by the Division and the Division has denied the application based on insufficient experience, and if the applicant believes that the Experience Points Tables do not adequately reflect the amount of the applicant's experience, the applicant may petition the Real Estate Commission for reevaluation by making a written request within 30 days after the denial stating specific grounds upon which relief is

requested. The Commission shall thereafter consider the request and issue a written decision.

2.2.8. An applicant previously licensed in another state shall provide a written record of the applicant's license history from that state and documentation of disciplinary action, if any, against the applicant's license.

2.2.9. Qualifications of License Applicants. An applicant for a new license may not:

(a) have been convicted of, entered a plea in abeyance to, or completed ~~[any]~~ a sentence of confinement on account of ~~[any]~~ a felony within five years preceding the application; or

(b) have been convicted of ~~[entered a plea in abeyance to]~~ or completed any sentence of confinement on account of ~~[any]~~ a misdemeanor involving fraud, misrepresentation, theft, or dishonesty within the three-year period~~[three years]~~ preceding the date of application.

2.2.10 Qualifications for Renewal. An applicant for license renewal, or for reinstatement of an expired license, may not have since the last date of licensure:

(a) been convicted of ~~[or entered a plea in abeyance to]~~ a felony; ~~[during the term of the last license or during the period between license expiration and application to reinstate an expired license; or]~~

(b) entered into a plea in abeyance agreement relative to a felony charge involving fraud, misrepresentation, or deceit; or

~~[(b)](c) had, with regard to activities requiring a real estate license, a finding of fraud, misrepresentation or deceit entered against the applicant~~; ~~[related to activities requiring a real estate license;]~~ by ~~[any]~~ a court of competent jurisdiction or ~~[any]~~ a government agency, unless the finding was explicitly considered by the Division in a previous application process~~[approving the applicant's initial license or previous license renewals].~~

2.2.11 Determining fitness for licensure. In determining whether an applicant who has not been disqualified by Subsections 2.2.9 or 2.2.10 ~~[meet]~~meets the requirements of honesty, integrity, truthfulness, reputation and competency required for a new or a renewed license, the Commission and the Division will consider information they consider necessary to make this determination, including the following:

2.2.11.1. Whether an applicant has been denied a license to practice real estate, property management, or any regulated profession, business, or vocation, or whether any license has been suspended or revoked or subjected to any other disciplinary sanction by this or another jurisdiction;

2.2.11.2. Whether an applicant has been guilty of conduct or practices which would have been grounds for revocation or suspension of license under Utah law had the applicant then been licensed;

2.2.11.3. Whether a civil judgment has been entered against the applicant based on a real estate transaction, and whether the judgment has been fully satisfied;

2.2.11.4. Whether a civil judgment has been entered against the applicant based on fraud, misrepresentation or deceit, and whether the judgment has been fully satisfied.



2.2.11.5 Whether an applicant has ever been convicted of, or entered a plea in abeyance to, any criminal offense, or whether any criminal charges against the applicant have ever been resolved by a diversion agreement or similar disposition;

2.2.11.6. Whether restitution ordered by a court in a criminal case has been fully satisfied;

2.2.11.7. Whether the parole or probation in a criminal case or the probation in a licensing action has been completed and fully served; and

2.2.11.8. Whether there has been subsequent good conduct on the part of the applicant. If, because of lapse of time and subsequent good conduct and reputation or other reason deemed sufficient, it shall appear to the Commission and the Division that the interest of the public will not likely be in danger by the granting of a license, the Commission and the Division may approve the applicant relating to honesty, integrity, truthfulness, reputation and competency.

**KEY: real estate business**

**Date of Enactment or Last Substantive Amendment:**  
~~June 22, 2009~~ 2010

**Notice of Continuation: April 18, 2007**

**Authorizing, and Implemented or Interpreted Law:**  
 61-2-5.5

**Governor, Economic Development,  
 Pete Suazo Utah Athletic Commission  
 R359-1-501**

**Promoter's Responsibilities in  
 Arranging a Contest**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 33503

FILED: 03/23/2010

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This amendment will allow promoters to have contestants pay a portion of their insurance deductible for injuries sustained during unarmed combat competition.

**SUMMARY OF THE RULE OR CHANGE:** This amendment will allow promoters to have contestants pay a portion of their insurance deductible for injuries sustained during unarmed combat competition. This amount cannot exceed more than 10% of the deductible or \$1,000, whichever is less.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 63C-11-101 et seq.

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The state is not responsible for providing insurance for medical, surgical, and hospital care for licensed contestants who are injured while engaged in a contest or exhibition. Consequently, there are no anticipated cost or savings.

◆ **LOCAL GOVERNMENTS:** Local government is not responsible for providing insurance for medical, surgical, and hospital care for licensed contestants who are injured while engaged in a contest or exhibition. Consequently, there are no anticipated cost or savings.

◆ **SMALL BUSINESSES:** Promoters are responsible for providing insurance for medical, surgical, and hospital care for licensed contestants who are injured while engaged in a contest or exhibition. Consequently, there will likely be some savings in insurance premiums and cost of reimbursing deductibles.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Promoters are currently responsible for providing insurance for medical, surgical, and hospital care for licensed contestants who are injured while engaged in a contest or exhibition, including the entire cost of the applicable insurance deductibles. This rule change would allow promoters to require contestants to pay up to 10% of the insurance deductible, not to exceed \$1,000 for injuries sustained during a contest.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Promoters are currently responsible for providing insurance for medical, surgical, and hospital care for licensed contestants who are injured while engaged in a contest or exhibition, including the entire cost of the applicable insurance deductibles. This rule change would allow promoters to require contestants to pay up to 10% of the insurance deductible, not to exceed \$1,000 for injuries sustained during a contest.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule change allows promoters to hold contestants partially responsible the costs associated for medical, surgical, and hospital care and should help reduce costs in promoting events in Utah.

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

GOVERNOR  
 ECONOMIC DEVELOPMENT,  
 PETE SUAZO UTAH ATHLETIC COMMISSION  
 324 S STATE ST  
 STE 500  
 SALT LAKE CITY, UT 84111  
 or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Bill Colbert by phone at 801-538-8876, by FAX at 801-538-8888, or by Internet E-mail at bcolbert@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/17/2010

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

AUTHORIZED BY: Bill Colbert, Secretary, PSUAC

**R359. Governor, Economic Development, Pete Suazo Utah Athletic Commission.**

**R359-1. Pete Suazo Utah Athletic Commission Act Rule.**

**R359-1-501. Promoter's Responsibilities in Arranging a Contest.**

(1) Before a licensed promoter may hold a contest or single contest as part of a single promotion, the promoter shall file with the Commission an application for a permit to hold the contest not less than 15 days before the date of the proposed contest, or not less than seven days for televised contests.

(2) The application shall include the date, time, and place of the contest as well as information concerning the on-site emergency facilities, personnel, and transportation.

(3) The permit application must be accompanied by a contest registration fee determined by the Department under Section 63-38-32.

(4) Before a permit to hold a contest is granted, the promoter shall post a surety bond with the Commission in the amount of \$10,000.

(5) Prior to the scheduled time of the contest, the promoter shall have available for inspection the completed physical facilities which will be used directly or indirectly for the contest. The designated Commission member shall inspect the facilities in the presence of the promoter or the promoter's authorized representative, and all deficiencies cited upon inspection shall be corrected before the contest.

(6) A promoter shall be responsible for verifying the identity, ring record, and suspensions of each contestant. A promoter shall be held responsible for the accuracy of the names and records of each of the participating contestants in all publicity or promotional material.

(7) A promoter shall be held responsible for a contest in which one of the contestants is disproportionately outclassed.

(8) Before a contest begins, the promoter shall give the designated Commission member the money for payment of contestants, referees, judges, and the attending physician. The designated Commission member shall pay each contestant, referee, judge, and physician in the presence of one witness.

(9) A promoter shall be not under the influence of alcohol or controlled substances during the contest and until all purses to the contestants and all applicable fees are paid to the commission, officials and ringside physician.

(10) At the time of an unarmed combat contest weigh-in, the promoter of a contest shall provide primary insurance coverage for each uninsured contestant and secondary insurance for each insured contestant in the amount of \$10,000 for each licensed contestant to provide medical, surgical and hospital care for licensed contestants who are injured while engaged in a contest or exhibition:

(a) The term of the insurance coverage ~~[must]~~shall not require the contestant to pay more than 10% of the insurance~~[a]~~ deductible, not to exceed \$500, for the medical, surgical or hospital care for injuries he sustains while engaged in a contest of exhibition. If the contestant is required to pay a portion of the insurance deductible, it shall be specified in the contestant's contract.

(b) If a licensed contestant pays for the medical, surgical or hospital care, the insurance proceeds ~~[must]~~shall be paid to the contestant or his beneficiaries as reimbursement for the payment.

(c) The promoter ~~[should]~~shall also have life insurance coverage of \$10,000 for each contestant in case of death.

(d) The promoter shall include the name of the medical insurance provider, applicable time limits in filing a claim and instructions in how to file a claim in the contestant's contract.

(11) In addition to the payment of any other fees and money due under this part, the promoter shall pay the following event fees:

(a)(i) \$100 for a contest or event occurring in a venue of fewer than 200 attendees;

(ii) \$200 for a contest or event occurring in a venue of at least 200 attendees but fewer than 500 attendees;

(iii) \$300 for a contest or event occurring in a venue of at least 500 attendees but fewer than 1,000 attendees;

(iv) \$400 for a contest or event occurring in a venue of at least 1,000 attendees but fewer than 3,000 attendees;

(v) \$600 for a contest or event occurring in a venue of at least 3,000 attendees but fewer than 5,000 attendees;

(vi) \$1000 for a contest or event occurring in a venue of at least 5,000 attendees but fewer than 10,000 attendees; or

(viii) \$2000 for a contest or event occurring in a venue of at least 10,000 attendees; and

(b) 3% of the first \$500,000, and one percent of the next \$1,000,000, of the total gross receipts from the sale, lease, or other exploitation of broadcasting, television, and motion picture rights for any contest or exhibition thereof, without any deductions for commissions, brokerage fees, distribution fees, advertising, contestants' purses or any other expenses or charges, except in no case shall the fee be more than \$25,000.

(c) the applicable fees assessed by the Association of Boxing Commission designated official record keeper.

(d) the commission may exempt from the payment of all or part of the assessed fees under this section for a special contest or exhibition based on factors which include:

(i) a showcase event promoting a greater interest in contests in the state;

(ii) attraction of the optimum number of spectators;

(iii) costs of promoting and producing the contest or exhibition;

(iv) ticket pricing;

(v) committed promotions and advertising of the contest or exhibition;

(vi) rankings and quality of the contestants; and

(vii) committed television and other media coverage of the contest or exhibition.

(viii) contribution to a 501(c)(3) charitable organization.

**KEY: licensing, boxing, unarmed combat, white-collar contests**  
**Date of Enactment or Last Substantive Amendment: [~~October 28, 2009~~2010]**

**Notice of Continuation: May 10, 2007**

**Authorizing, and Implemented or Interpreted Law: 63C-11-101 et seq.**

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

### **R414-3A**

### Outpatient Hospital Services

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33515

FILED: 03/29/2010

#### 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.

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

#### 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](mailto:cdevashrayee@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/17/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/24/2010

AUTHORIZED BY: David Sundwall, MD, Executive Director

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

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

##### **R414-3A-1. Introduction and Authority.**

This rule defines the scope of outpatient hospital services available to Medicaid clients for the treatment of disorders other than mental disease. This rule is authorized under Utah Code 26-18-3 and governs the services allowed under 42 CFR 440.20.

##### **R414-3A-2. Definitions.**

(1) "Allowed charges" mean actual charges submitted by the provider less any charges for non-covered services.

(2) "CHEC" means Child Health Evaluation and Care and is the Utah specific term for the federally mandated program of Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) for children under the age of 21.

(3) "Clinical Laboratory Improvements Act" (CLIA) is the Centers for Medicare and Medicaid Services (CMS) program that limits reimbursement for laboratory services based on the equipment and capability of the physician or laboratory to provide an appropriate, competent level of laboratory service.

(4) "Hyperbaric Oxygen Therapy" is therapy that places the patient in an enclosed pressure chamber for medical treatment.

(5) "Other Practitioner of the Healing Arts" means a doctor of dental surgery or a podiatrist.

(6) "Outpatient" means professional services provided for less than a 24-hour period regardless of the hour of admission, whether or not a bed is used, or whether or not the patient remains in the facility past midnight.

(7) "Prepaid Mental Health Plan" means the prepaid, capitated program through which the Department pays contracted community mental health centers to provide all needed inpatient and outpatient mental health services to residents of the community mental health center's catchment area who are enrolled in the plan.

**R414-3A-3. Client Eligibility Requirements.**

Outpatient hospital services are available to categorically and medically needy individuals who are under the care of a physician or other practitioner of the healing arts.

**R414-3A-4. Program Access Requirements.**

(1) The Department reimburses for outpatient hospital services and supplies only if they are:

- (a) furnished in a hospital;
- (b) provided by hospital personnel by or under the direction of a physician or dentist;
- (c) provided as evaluation and management of illness or injury under hospital medical staff supervision and according to the written orders of a physician or dentist.

(2) All outpatient hospital services are subject to review by the Department.

**R414-3A-5. Prepaid Mental Health Plan.**

A Medicaid client residing in a county for which a prepaid mental health contractor provides mental health services must obtain authorization for outpatient psychiatric services from the prepaid mental health contractor for the client's county of residence.

**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-7. Prior Authorization.**

Prior authorization must be obtained on certain medical and surgical procedures in accordance with R414-1-14.

**R414-3A-8. Copayment Policy.**

Each Medicaid client is responsible for a copayment as established in the Utah State Medicaid Plan and incorporated by reference in R414-1.

**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.

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment:** ~~[June 26, 2007]~~[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

Health, Health Care Financing,  
Coverage and Reimbursement Policy

**R414-19A**

Coverage for Dialysis Services by a  
Free-Standing State Licensed Dialysis  
Facility

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 33528

FILED: 03/31/2010

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to clarify service coverage and access requirements for dialysis patients.

SUMMARY OF THE RULE OR CHANGE: This change updates federal citations in the rule. It also clarifies language in the rule regarding program access requirements and service coverage. Providers must ensure that the patient applies for Medicare so that Medicaid is not covering dialysis long term for patients covered under Medicare.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 CFR 440.20 and 42 CFR 440.90 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: The Department does not anticipate any impact to the state budget because this change only clarifies and updates access requirements and service coverage for dialysis patients.

◆ LOCAL GOVERNMENTS: This change does not impact local governments because they do not fund or provide dialysis services for Medicaid clients.

◆ SMALL BUSINESSES: The Department does not anticipate any impact to small businesses because this change only clarifies and updates access requirements and service coverage for dialysis patients.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The Department does not anticipate any impact to Medicaid providers or clients because this change only clarifies and updates access requirements and service coverage for dialysis patients.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Department does not anticipate any impact to a single Medicaid provider or client because this change only clarifies and updates access requirements and service coverage for dialysis patients.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact is expected because it is believed that all providers are already complying with the requirement due to federal and private standards. Medicaid is assuring its rules are consistent with those standards.

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 [kmcnutt@utah.gov](mailto:kmcnutt@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/17/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/24/2010

AUTHORIZED BY: David Sundwall, MD, Executive Director

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

**R414-19A. Coverage for Dialysis Services by a Free-Standing State Licensed Dialysis Facility.**

**R414-19A-0. Policy Statement.**

Dialysis services are provided under the State Plan for Medicaid to cover Medicaid eligible individuals principally for the 90-day period between the first dialysis service and commencement of Medicare ESRD benefits. If Medicaid individuals are unable to qualify for Medicare, dialysis services are provided under the State Plan for Medicaid.

**R414-19A-1. Authority.**

The provision of clinic services for outpatient dialysis is authorized under the authority of Title 42 of the Code of Federal Regulations section 440.20, 440.90, and the Utah State Plan under clinic services.

**R414-19A-2. Definition as Used in This Chapter.**

[A]1. Approved dialysis facility means any free-standing State-licensed facility providing dialysis services, and certified to participate in the Medicare program.

**R414-19A-3. Eligibility Requirements.**

Dialysis services are available to both categorically and medically needy Medicaid recipients.

**R414-19A-4. Program Access Requirements.**

Dialysis services are available to Medicaid recipients when performed through a[n] state licensed Medicare approved dialysis facility.

**R414-19A-5. Service Coverage.**

[A]1. Dialysis services, which include hemodialysis and peritoneal dialysis treatments, may be provided. Providers may bill the Division of Health Care Financing for these services only on a fee-for-service basis.

[+]a. Hemodialysis and peritoneal dialysis services and supplies are covered if they are furnished in approved dialysis facilities. The composite rate for hemodialysis and peritoneal dialysis includes all services, items, supplies, and equipment

necessary to perform dialysis. The rate includes physician evaluation as part of the dialysis service and routine laboratory tests.

[2]b. Self-dialysis is covered when performed by an ESRD patient who has completed an appropriate course of training.

[3]c. Hemodialysis [~~and peritoneal dialysis~~] treatments performed at home are covered when they are supervised by an approved dialysis facility, and performed by an appropriately trained patient. Treatments performed at home are covered only if the facility provides the supplies, equipment, and supervisory services necessary for home dialysis. Medicaid pays the same amount for each home dialysis treatment as it does for an in-facility treatment.

[4]d. Monthly supervision of hemodialysis and peritoneal dialysis, including home hemodialysis, is a covered benefit.

[5]e. Routine diagnostic and dialysis monitoring tests, e.g. hematocrit and clotting time, used by the facility to monitor the patient's fluid incident to each dialysis treatment, are covered when performed by qualified staff of the facility under the direction of a physician, as provided in the plan of care.

[6]f. [~~Epoetin Alfa (EPO) is~~] Erythropoietins are covered for the treatment of anemia for ESRD patients when:

[a]i. administered by the renal dialysis facility, or

[b]ii. administered "incident to" a physician's service outside the dialysis facility; and

[e]iii. hematocrit is less than 30 percent.

[7]g. [~~EPO is~~] Erythropoietins are not covered when self-administered.

(2) Medically necessary renal dialysis services are covered for the first three months of dialysis pending the establishment of Medicare eligibility. If a Medicaid client is denied Medicare eligibility, the client may continue to receive medically necessary dialysis services under Medicaid.

(3) Medicare becomes the primary reimbursement source for individuals who meet Medicare eligibility criteria. Dialysis providers must assist patients in applying for and pursuing final Medicare eligibility.

**R414-19A-6. Standards of Care.**

Dialysis facilities must comply with the Medicare conditions of participation as outlined in 42 CFR, Part 405 Subpart U, dated October 1, [~~1988~~]2009, which [~~are~~]is hereby adopted and incorporated by reference.

**R414-19A-7. Limitations.**

Dialysis for End Stage Renal Disease is limited to medically accepted dialysis procedures for outpatients receiving services through free-standing State-licensed facilities which are also certified to participate in the Medicare program.

**R414-19A-8. Prior Authorization.**

Prior authorization is not required.

**R414-19A-9. Reimbursement for Services.**

Payment for renal dialysis is based on the established fee schedule unless a lower amount is billed. The amount billed cannot exceed usual and customary charges. Fees are based on the Medicare payment for dialysis in Salt Lake County, Utah.

**KEY:** [m]Medicaid

**Date of Enactment or Last Substantive Amendment:** [1990]2010

**Notice of Continuation:** June 3, 2005

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

**Health, Health Care Financing,  
Coverage and Reimbursement Policy  
R414-33  
Targeted Case Management Services**

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 33514

FILED: 03/29/2010

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This repeal is necessary because targeted case management services as outlined in this rule are no longer available to Medicaid clients.

**SUMMARY OF THE RULE OR CHANGE:** This rule is repealed in its entirety.

**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 no impact to the state budget because no agencies or individuals have been enrolled to provide these services since 2006.
- ◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they do not fund or provide case management services.
- ◆ **SMALL BUSINESSES:** There is no impact to small businesses because no agencies or individuals have been enrolled to provide these services since 2006.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers or to Medicaid clients because no agencies or individuals have been enrolled to provide these services since 2006.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no impact to a single Medicaid provider or to a Medicaid client because no agencies or individuals have been enrolled to provide these services since 2006.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule repeal is necessary due to changes in the Medicaid program that no longer make these services available. No fiscal impact since this program has been unavailable since 2006.

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

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/17/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/24/2010

AUTHORIZED BY: David Sundwall, MD, Executive Director

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

~~[R414-33. Targeted Case Management Services.~~

~~R414-33-0. Policy Statement.~~

~~Targeted Case Management is a service that assists recipients in the target group to gain access to medical, social, educational, and other services.~~

~~R414-33-1. Authority and Purpose.~~

~~A. The Consolidated Omnibus Budget Reconciliation Act (P.L. 99-272, COBRA) added Targeted Case Management to the list of optional services which can be provided under the State Medicaid Plan.~~

~~B. The Health Care Financing Administration (HCFA) approved Utah's request for provision of Targeted Case Management services, effective July 1, 1987.~~

**R414-33-2. Definitions.**

~~A. "Independent living arrangement financially supported by the Utah Department of Social Services" means a setting other than the individual's natural family home, including supervised apartment and independent living for individuals between the ages of 17 and 21. Room and board in these facilities and in foster and group homes are supported by the Utah Department of Social Services through a combination of state and federal funds (excluding AFDC grants).~~

~~B. "Under the statutory responsibility of the Utah Department of Social Services" means children in protective custody who are dependent, neglected, abused, or conduct-disordered.~~

~~C. "Qualified Targeted Case Manager" means a psychologist, clinical social worker, certified social worker, or social service worker, licensed under the authority of Title 58 (Occupational and Professional Licensing) of the Utah Code Annotated, 1953 as amended, practicing within the scope of his license.~~

**R414-33-3. Eligibility Requirements/Coverage.**

~~Targeted Case Management services are provided to recipients under the age of 21 who are under the statutory responsibility of the Utah Department of Human Services, with the exception of youth under the authority of the Utah Division of Youth Corrections.~~

**R414-33-4. Program Access Requirements.**

~~A. Recipients must meet one of the following criteria:~~

~~1. be discharged from an inpatient facility in the previous 12 months; or~~

~~2. be currently residing in a foster home, group home, supervised apartment or independent living arrangement financially supported by the Utah Department of Social Services; or~~

~~3. be at risk for placement in a more costly or restrictive living arrangement were case management services not available.~~

~~B. In addition, recipients of Targeted Case Management services must exhibit at least one of the following:~~

~~1. failure or inability to comply with a treatment regimen or failure or inability to access needed services independently; or~~

~~2. frequent crisis episodes; or~~

~~3. requirement for multiple services and their coordination; or~~

~~4. lack of adequate support networks.~~

~~C. Recipients will have the free choice of any enrolled qualified Targeted Case Manager.~~

~~D. It is the recipient's option whether he receives Targeted Case Management services. A recipient cannot be forced to receive Targeted Case Management services for which he might be eligible.~~

~~E. Targeted Case Management services may not be used to restrict the access of the recipient to other services available under the Medicaid State Plan.~~

**R414-33-5. Service Coverage.**

~~Targeted Case Management is a service that assists recipients in the target group to gain access to medical, social, educational, and other services. Targeted Case Management includes:~~

~~A. assessing the recipient's need for service and developing a service plan to assure adequate access to medical, social, educational, and other related services.~~

~~B. linking the recipient with basic community resources.~~

~~C. coordinating the delivery of services and monitoring to assure appropriateness and quality of services.~~

~~D. monitoring recipient's progress and continued need for service.~~

**R414-33-6. Standards of Care.**

~~A. The Targeted Case Management manager must develop and maintain sufficient written documentation for each unit of targeted case management services billed indicating at least the following:~~

~~1. date of service;~~

~~2. name of recipient;~~

~~3. name of provider agency and person providing the service;~~

~~4. units of service; and~~

~~5. place of service.~~

~~B. Targeted Case Management services must be documented in 15-minute intervals.~~

~~C. The following documents must be contained in each recipient's case file:~~

~~1. social history that documents need for service;~~

~~2. treatment plan that identifies the services the recipient is to receive; and~~

~~3. progress notes that track the recipient's progress toward treatment objectives. The progress notes must be updated periodically at intervals of no more than 95 days, or more frequently as required by the client's condition.~~

~~D. The Targeted Case Manager must sign a provider agreement with the Division of Health Care Financing, Utah Department of Health, in order to become a qualified provider. The individual must satisfy one of the following:~~

~~1. provide documentation of:~~

~~a. at least 5 years experience providing case management services to the target group;~~

~~b. be licensed to practice independently as a psychologist or clinical social worker under the authority of the Utah Code Annotated, Title 58;~~

~~c. current professional malpractice insurance of at least \$1,000,000; or~~

~~2. provide documentation of:~~

~~a. contract or employment with a public or private-licensed child placement agency that specializes in providing case management to the target group and has adequate malpractice insurance for its employees or contractors;~~

~~b. license as a psychologist, clinical social worker, certified social worker, social service worker, licensed under the authority of Title 58 of the Utah Code Annotated, 1953, as amended.~~

**R414-33-7. Limitations.**

~~A. Individuals receiving nursing home or hospital services are not eligible for Targeted Case Management services.~~

~~B. Recipients receiving case management services under Home and Community-Based Waiver Services are not eligible for Targeted Case Management services.~~



- ~~C. Discharge planning cannot be billed as a Targeted Case Management service.~~
- ~~D. Outreach activities in which the agency or provider attempts to contact potential recipients of a service do not constitute Targeted Case Management services.~~
- ~~E. A physical or psychological examination/evaluation conducted as a component of a recipient's need for service assessment cannot be considered a Targeted Case Management service.~~
- ~~F. Individual therapy, group therapy, and teaching activities cannot be billed as a Targeted Case Management service.~~
- ~~G. Making referral arrangements for medical treatment may be considered a Targeted Case Management activity; however, the actual provision of the service does not constitute Targeted Case Management services.~~
- ~~H. The following are associated with the necessary activities for the proper and efficient administration of the Medicaid State Plan and cannot be included as components of the Targeted Case Management service:
 
  - ~~1. Medicaid eligibility determinations;~~
  - ~~2. Medicaid intake processing;~~
  - ~~3. Medicaid preadmission screening;~~
  - ~~4. prior authorization for Medicaid services;~~
  - ~~5. required Medicaid utilization review;~~
  - ~~6. CHEC (EPSDT) administration; and~~
  - ~~7. activities associated with the "lock-in" provisions of 1915(a) of the Social Security Act.~~~~

**R414-33-8. Prior Authorization:**  
~~Not required.~~

**R414-33-9. Reimbursement for Services:**

- ~~A. Payment for Targeted Case Management services is made on a fee-for-service basis.~~
- ~~B. Rates are prospective and established on the basis of the historical cost for the service. Historical cost is inflated by the Consumer Price Index, Urban All Items, published by the U.S. Department of Labor.~~
- ~~C. Rates are based on a 15-minute unit of service.~~
- ~~D. Payment cannot be made for Targeted Case Management services for which another payer is liable, nor for services for which no payment liability is incurred.~~

~~KEY: medicaid  
 Date of Enactment or Last Substantive Amendment: 1990  
 Notice of Continuation: June 3, 2005  
 Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3]~~

Insurance, Administration  
**R590-225**  
 Submission of Property and Casualty  
 Rate and Form Filings

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 33517  
 FILED: 03/30/2010

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of the changes to this rule are to comply with the requirements in S.B. 148, Guaranteed Asset Protection (GAP) Waivers. This bill requires GAP providers to file their waivers 30 days prior to their use. Auto dealers offer these waivers to customers to pay for the depreciation of their new or used vehicle if it is in an accident or stolen after driving it off the car-lot. The rule provides guidance about how to file these waivers with the department. (DAR NOTE: S.B. 148 (2010) is found at Chapter 274, Laws of Utah 2010, and was effective 07/01/2010.)

**SUMMARY OF THE RULE OR CHANGE:** The changes to this rule provide guidance to GAP providers as to how to file GAP waivers with the Department.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 31A-19a-203 and Section 31A-2-201 and Section 31A-2-201.1 and Section 31A-2-202

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** The Department will need to assess GAP providers and possibly auto dealers annually to pay into a dedicated account used to fund an employee to register providers, review all waivers filed with the department, and make sure renewal fees are paid annually.
- ◆ **LOCAL GOVERNMENTS:** The changes to this rule will have no effect on local governments since the rule deals solely with the relationship between the Department and its licensees.
- ◆ **SMALL BUSINESSES:** GAP providers that are small businesses, as well as the majority who will be large businesses, will be assessed \$0 - \$1,000 annually for a dedicated account used to fund a department employee who will register providers, review all waivers filed with the Department, and make sure renewal fees are paid annually. If there is not enough collected from the first assessment then a second assessment will be made against car dealers.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** GAP providers will be assessed \$0 - \$1,000 annually for a dedicated account used to fund a department employee who will register providers, review all waivers filed with the department, and make sure renewal fees are paid annually. If there is not enough collected from the first assessment then a second assessment will be made against car dealers. Participants in this process do not anticipate consumers being affected financially by this process.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The department will receive money from a dedicated account to pay for an employee to regulate GAP waivers. The industry, GAP providers, auto dealers, and creditors that uses these

waivers have requested this regulation and have voluntarily offered to pay into a dedicated account to pay for it. Consumers are not at this time anticipated to be affected financially by this change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: GAP providers and auto dealers have requested this regulation and have voluntarily offered to pay into a dedicated account for the service provided by the department. It could cost the GAP providers anywhere from \$0 - \$1,000 annually and the auto dealers \$0 - \$50 annually.

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)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/17/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/24/2010

AUTHORIZED BY: Jilene Whitby, Information Specialist

#### **R590. Insurance, Administration.**

#### **R590-225. Submission of Property and Casualty Rate and Form Filings.**

##### **R590-225-1. Authority.**

This rule is promulgated by the insurance commissioner pursuant to Subsections 31A-2-201(3), 31A-2-201.1, 31A-2-202(2), and 31A-19a-203.

##### **R590-225-2. Purpose and Scope.**

(1) The purpose of this rule is to set forth procedures for submitting:

- (a) property and casualty and title form filings required by Section 31A-21-201;
  - (b) property and casualty and title rates, and supplementary information under Section 31A-19a-203;
  - (c) service contract form filings required by Subsection 31A-6a-103(2)(a); and
  - (d) bail bond form filings required by Sections 31A-35-607 and Rule R590-196.
- (e) guaranteed asset protection waiver filings required by 31A-6b-202(b) and 31A-6b-203.

(2) This rule applies to all lines of property and casualty insurance, including title insurance, bail bond, ~~and~~ service contracts[-], and guaranteed asset protection waivers.

##### **R590-225-3. Documents Incorporated by Reference.**

(1) The department requires that the documents described in this rule shall be used for all filings.

(a) Actual copies may be used or you may adapt them to your word processing system.

(b) If adapted, the content, size, font, and format must be similar.

(2) The following filing documents are hereby incorporated by reference and are available on the department's web site, <http://www.insurance.utah.gov>.

(a) "NAIC Uniform Property and Casualty Transmittal Document", dated January 1, 2009;

(b) "NAIC Property and Casualty Transmittal Document (Instructions)", dated January 1, 2009;

(c) "NAIC Uniform Property and Casualty Coding Matrix", dated January 1, 2009;

(d) "Utah Insurer Loss Cost Multiplier and Expense Constant Supplement Filing Forms", dated October 2003;

(e) "Utah Workers Compensation Insurer Loss Cost Multiplier Filing Form", dated October 2003.

##### **R590-225-4. Definitions.**

In addition to the definitions in Sections 31A-1-301 and 31A-19a-102, the following definitions shall apply for the purpose of this rule:

(1) "Certification" means a statement that the filing being submitted is in compliance with Utah laws and rules.

(2) "Electronic Filing" means a:

(a) filing submitted via the Internet by using the System for Electronic Rate and Form Filings, SERFF, or

(b) filing submitted via an email system.

(3) "File And Use" means a filing can be used, sold, or offered for sale after it has been filed with the department.

(4) "File Before Use" means a filing can be used, sold, or offered for sale after it has been filed with the department and a stated period of time has elapsed from the date filed.

(5) "Filer" means a person who submits a filing.

(6) "Filing Objection Letter" means a letter issued by the commissioner when a review has determined the filing fails to comply with Utah law and rules. The filing objection letter may, in addition to requiring correction of non-compliant items, request clarification or additional information pertaining to the filing.

(7) "Letter of authorization" means a letter signed by an officer of the licensee on whose behalf the filing is submitted that designates filing authority to the filer.

(8) "Order to Prohibit Use" means an order issued by the commissioner that prohibits the use of a filing.

(9) "Rejected" means a filing is:

(a) not submitted in accordance with applicable laws and rules;

(b) returned to the filer by the department with the reasons for rejection; and

(c) not considered filed with the department.

(10) "Type of Insurance" means a specific line of property and casualty insurance including general liability, commercial property, workers compensation, automobile, homeowners, title, bail bond, ~~and~~ service contracts[-], and guaranteed asset protection waivers.

(11) "Use And File" means a filing can be used, sold, or offered for sale if it is filed within a stated period of time after its initial use.

(12) "Utah Filed Date" means the date provided to a filer by the Utah Insurance Department that indicates a filing has been accepted.

**R590-225-5. General Filing Information.**

(1) Each filing submitted must be accurate, consistent, complete, and contain all required documents in order for the filing to be processed in a timely and efficient manner. The commissioner may request any additional information deemed necessary.

(2) Licensee and filer are responsible for assuring that a filing is in compliance with Utah laws and rules. A filing not in compliance with Utah laws and rules is subject to regulatory action under Section 31A-2-308.

(3) Rates, supplementary information, and forms applying to a specific program or product may be submitted as one filing.

(4) A filing that does not comply with this rule will be rejected and returned to the filer. A rejected filing:

- (a) is not considered filed with the department;
- (b) must be submitted as a new filing;
- (c) will not be reopened for purposes of resubmission.

(5) A prior filing will not be researched to determine the purpose of the current filing.

(6) The department does not review or proofread every filing.

- (a) A filing may be reviewed:
  - (i) when submitted;
  - (ii) as a result of a complaint;
  - (iii) during a regulatory examination or investigation; or
  - (iv) at any other time the department deems necessary.

(b) If a filing is reviewed and is not in compliance with Utah laws and rules, A Filing Objection Letter or an Order To Prohibit Use will be issued to the filer. The commissioner may require the licensee to disclose deficiencies in forms or rating practices to affected consumers.

(7) Filing correction:

- (a) Filing corrections are considered informational.

(b) Filing corrections must be submitted within 15 days of the date the original filing was submitted to the department. The filer must reference the original filing.

(c) A new filing is required if a filing correction is made more than 15 days after the date the original filing was submitted to the department. The filer must reference the original filing in the filing description.

(8) If responding to a Response to Filing Objection Letter or an Order to Prohibit Use, refer to section R590-225-12 for instructions.

(9) Filing withdrawal. A filer must notify the department when withdrawing a previously filed form, rate, or supplementary information.

**R590-225-6. Filing Submission Requirements.**

(1) All filings must be submitted as an electronic filing.

- (a) All filers must use SERFF to submit a filing.

(b) EXCEPTION: bail bond agencies~~[-and]~~, service contract providers, and guaranteed asset protection providers may choose to use email instead of SERFF to submit a filing.

(2) A filing must be submitted by market type and type of insurance, not by annual statement line number.

(3) A filing may not include more than one type of insurance, unless the filing is a commercial or personal inter-line form filing. The inter-line use of a form must be explained in the Filing Description.

(4) A filer may submit a filing for more than one insurer if all applicable companies are listed.

(5) SERFF Filing.

(a) Filing Description. Do not submit a cover letter. On the General Information tab, complete the Filing Description Section with the following information, presented in the order shown below.

(i) Certification.

(A) The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules.

(B) The following statement must be included in the filing description: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R590-225 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".

(C) A filing will be rejected if the certification is false, missing, or incomplete.

(D) A certification that is false may subject the licensee to administrative action.

(ii) Provide a description of the filing including:

(A) the intent of the filing; and

(B) the purpose of each document within the filing.

(iii) Indicate if the filing:

(A) is new;

(B) is replacing or modifying a previous submission; if so, describe the changes made, if previously rejected the reasons for rejection, and previous filing's Utah Filed Date;

(C) includes forms for informational purposes; if so, provide the Utah Filed Date; or

(D) does not include the base policy; if so, provide the Utah Filed Date of the base policy and describe the effect on the base policy.

(iv) Identify if any of the provisions are unusual, controversial, or have been previously objected to, or prohibited, and explain why the provision is included in the filing.

(b) Letter of Authorization.

(i) When the filer is not the licensee, a letter of authorization from the licensee must be attached to the Supporting Documentation tab.

(ii) The licensee remains responsible for the filing being in compliance with Utah laws and rules.

(c) Items being submitted for filing.

(i) All forms must be attached to the Form Schedule tab.

(ii) All rates and supplementary rating information must be attached to the Rate/Rule Schedule tab.

(d) Refer to each applicable section of this rule for additional procedures on how to submit forms, rates, and supplementary information.

(6) A complete EMAIL filing consists of the following when submitted by a bail bond agent~~[-or]~~, a service contract provider, or a guaranteed asset protection provider:

(a) The title of the EMAIL must display the company name only.

(b) Transmittal. The NAIC Uniform Property and Casualty Transmittal Document, as provided in section R590-225-3(2), must be properly completed.

(i) COMPLETE THE TRANSMITTAL BY USING THE FOLLOWING:

(A) "NAIC Coding Matrix;"

(B) "NAIC Instruction Sheet;" and

(C) "Utah Property and Casualty Content Standards."

(ii) Do not submit the documents described in (A), (B), and (C) with the filing.

(c) Filing Description. Filing Description. Do not submit a cover letter. In section 21 of the transmittal, complete the Filing Description with the following information, presented in the order shown below.

(i) Certification.

(A) The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules.

(B) The following statement must be included in the filing description: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R590-225 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".

(C) A filing will be rejected if the certification is false, missing, or incomplete.

(D) A certification that is false may subject the licensee to administrative action.

(ii) Provide a description of the filing including:

(A) the intent of the filing; and

(B) the purpose of each document within the filing.

(iii) Indicate if the filing:

(A) is new;

(B) is replacing or modifying a previous submission; if so, describe the changes made, if previously rejected the reasons for rejection, and previous filing's Utah Filed Date;

(C) includes forms for informational purposes; if so, provide the Utah Filed Date; or

(iv) Identify if any of the provisions are unusual, controversial, or have been previously objected to, or prohibited, and explain why the provision is included in the filing.

(d) Letter of Authorization.

(i) When the filer is not the licensee, a letter of authorization from the licensee must be attached to the supplementary documentation tab.

(ii) The licensee remains responsible for the filing being in compliance with Utah laws and rules.

(e) Refer to each applicable Section of this rule for additional procedures on how to submit forms, rates, and supplementary information.

(f) Items being submitted for filing. Any items submitted for filing must be submitted in PDF format.

#### **R590-225-7. Procedures for Form Filings.**

(1) Forms in general:

(a) Forms are "File And Use" filings. EXCEPTION: service contracts~~[-Service contracts]~~, and guaranteed asset protection waivers are "File Before Use".

(b) Each form must be identified by a unique form number. The form number may not be variable.

(c) A form must be in final printed form or printer's proof format. A draft may not be submitted.

(2) If you have authorized a Rate Service Organization (RSO) to make form filings on your behalf, no filing by you is required if you implement the filings as submitted by the RSO.

(a) A filing is required if you delay the effective date, non-adopt or alter the filing in any way.

(b) Your filing must be received by the department before the RSO effective date.

(c) We do not require that you attach copies of the RSO's forms when you reference a filing.

(3) If you have NOT authorized an RSO to file forms on your behalf, you must include, in your filing a letter stating your intent to adopt any RSO forms for your use.

(a) Copies of the RSO forms are not required.

(b) Your filing must include a complete list of the RSO forms you intend to adopt by form number, title/name and filing identification number of the RSO.

(4) A "Me Too" filing, referencing a filing submitted by another insurer, bail bond agency, or service contract provider is not permitted.

(5) If a previously filed Utah amendatory endorsement will be used in connection with the form being filed, explain this in the Filing Description section of the transmittal form and include a copy with the filing.

(6) If the filing is for more than one insurer and all insurers included in the filing have submitted a transmittal:

(a) only one copy of each form is required;

(b) If the name of each respective company or unique insurer logo is printed on each separate set of the form, then a separate form must be filed for each insurer.

(7) Since a form may be used once it is "Filed" and must be "Filed" before it can be used, sold or offered for sale, you do not need to re-file or notify the department if the implementation date of the original filing changes.

#### **R590-225-8. Procedures for Rate and Supplementary Information Filings.**

(1) Rates and supplementary information in general.

(a) Rates and supplementary information are "Use And File" filings. EXCEPTION: title and workers compensation rates and supplementary information are "File Before Use" filings.

(b) Service ~~[C]contract [P]providers[-and]~~, ~~[B]bail [B]bond agencies~~, and guaranteed asset protection providers are exempt from this section.

(2) If you have authorized a Rate Service Organization (RSO) to make a prospective loss cost, supplementary information filing, or both, on your behalf, no filing by you is required if you implement the filing as submitted by the RSO.

(a) A filing is required if you delay the effective date, non-adopt, or alter the filing in any way.

(b) Any such filing must be received by the department within 30 days of the effective date established by the RSO.

(c) We do not require that you attach copies of the RSO's manual pages when you reference an RSO filing.

(3) If you have NOT authorized an RSO to file the prospective loss cost, supplementary rating information, or both, on your behalf

(a) you must include in your filing a letter stating your intent to adopt the RSO prospective loss cost, supplementary rating information filing, or both.

(b) You must file copies of any manual pages as if they were your own and provide your actuarial justification.

(4) A "Me Too" filing, referencing a filing submitted by another licensee, is not permitted.

(5) If the filing is for more than one insurer and all insurers included in the filing have submitted a transmittal and the supporting data and manual pages are identical for each insurer included in the filing, only one copy of the supporting data and manual pages are required to be submitted.

(6) Rate and supplementary information filings must be supported and justified by each insurer.

(a) Justification must include:

(i) submission of all factors used in determining initial supplementary information and rates or changes in existing supplementary information and rates; and

(ii) a complete explanation as to the extent to which each factor has been used.

(b) Underwriting criteria are not required unless they directly affect the rating of the policy.

(c) Underwriting criteria used to differentiate between rating tiers is required.

(7) When submitting a filing for any kind of rating plan, rating modification plan, or credit and debit plan, an insurer must include in the filing:

(a) a statement identifying the arithmetic process to be used and whether factors will be added or multiplied when applying them to base rates; and

(b) justification for the method used.

(c) A filing will be rejected as incomplete if it fails to specifically provide this information.

(8) Utah and countrywide statistical data for the latest three years available must be submitted with each filing.

(a) This data should include earned premiums, incurred losses, loss ratios, establishment of expense factors, and expected loss ratios.

(b) Calculations involved in establishing rates from loss experience are to be exhibited including the establishment of trend factors, loss development factors, etc.

(c) If any of the above information is not available, a detailed explanation of why must be provided with the filing.

(9) Rate deviation, prospective loss cost, and loss cost multiplier.

(a) In the past, a rate deviation filing was common.

(i) A rate deviation consisted of a modification, usually a percentage decrease or increase, to a RSO manual rate or supplementary information.

(ii) The justification was that an individual insurer could demonstrate experience, expense and profit factors different from the average experience, expense and profit contemplated in the RSO's manual rate.

(b) With the promulgation of a prospective loss cost, rate deviation ceased to exist.

(i) There are no longer manual rates from which to deviate.

(ii) Once an insurer has filed to implement the RSO prospective loss cost for a given line, company deviations previously filed became null and void.

(iii) A filing of a straight percentage deviation is no longer applicable.

(c) Loss cost multiplier.

(i) An individual insurer adjustment to the RSO prospective loss cost must be made as part of the calculation of the loss cost multiplier and must be included in the "Utah Insurer Loss Cost Multiplier Filing Forms."

(ii) This form allows for the inclusion of an individual insurer modification of the RSO prospective loss cost.

(10) Procedures for Reference Filings to Advisory Prospective Loss Cost.

(a) An RSO does not usually file an advisory rate that contains provisions for expenses, other than loss adjustment expenses.

(i) An RSO develops and files with the commissioner a "Reference Filing" containing advisory prospective loss cost and supporting actuarial and statistical data.

(ii) Each insurer must individually determine the rates it will file and the effective date of any rate changes.

(b) If an insurer that is a member, subscriber or service purchaser of any RSO determines to use the prospective loss cost in an RSO Reference Filing in support of its own filing, the insurer must make a filing using the "Utah Insurer Loss Cost Multiplier Filing Forms."

(c) The insurer's filed rates are the combination of the RSO's prospective loss cost and the loss cost multiplier contained in the "Utah Insurer Loss Cost Multiplier Filing Forms."

(d) An insurer may file a modification of the prospective loss cost in the RSO Reference Filing based on its own anticipated experience.

(e) Actuarial justification is required for a modification, upwards or downwards, of the prospective loss cost in the Reference Filing.

(f) An insurer may request to have its loss cost adjustments remain on file and reference all subsequent RSO prospective loss cost Reference Filings.

(i) Upon receipt of subsequent RSO Reference Filings, the insurer's filed rates are the combination of the RSO's prospective loss cost and the loss cost adjustments contained in the "Utah Insurer Loss Cost Multiplier Filing Forms" on file with the commissioner, and will be effective on the effective date of the prospective loss cost.

(ii) The insurer need not file anything further with the commissioner.

(g) If the filer wants to have its filed loss cost adjustments remain on file with the commissioner, but intends to delay, modify, or not adopt a particular RSO's Reference Filing, the filer must make an appropriate filing with the commissioner.

(h) An insurer's filed loss cost adjustments will remain in effect until the filer withdraws them or files a revised "Utah Insurer Loss Cost Multiplier Filing Form."

(i) A filer may file such other information the filer deems relevant.

(j) If an insurer wishes to use minimum premiums, it must file the minimum premiums it proposes to use.

(11) Supplementary Rate Information.

(a) The RSO files with the commissioner RSO filings containing a revision of rules, relativities and supplementary rate information. These RSO filings include:

(i) policy-writing rules;

(ii) rating plans;

(iii) classification codes and descriptions; and

(iv) territory codes, descriptions, and rules, which include factors or relativities such as, increased limits factors, classification relativities or similar factors.

(b) These filings are made by the RSO on behalf of those insurers that have authorized the RSO to file rules, relativities and supplementary rating information on their behalf.

(c) An RSO may print and distribute a manual of rules, relativities and supplementary rating information.

(d) If an insurer has authorized an RSO to file on its behalf and the insurer decides to use the revisions and effective date then the insurer does NOT file anything with the commissioner.

(e) If an insurer has authorized an RSO to file on its behalf and the insurer decides to use the revisions as filed, BUT with a different effective date, then the insurer must notify the commissioner of the insurer's effective date within 30 days after the RSO's effective date.

(f) If an insurer has authorized an RSO to file on its behalf, but the insurer decides not to use the revision, then the insurer must notify the commissioner within 30-days after the RSO's effective date.

(g) If an insurer has authorized an RSO to file on its behalf, but the insurer decides to use the revision with modification, then within 30-days of the RSO's effective date the insurer must file the modification specifying the basis for the modification and the insurer's effective date.

(12) Consent-to-rate Filing.

(a) Subsection 31A-19a-203(6) allows an insurer to file a written application for a particular risk stating the insurer's reasons for using a higher rate than that otherwise applicable to a risk.

(b) The Filing Description must indicate that it is a consent-to-rate filing, show the filed rate, the proposed rate, and the reasons for the difference.

(13) Individual Risk Filing.

(a) R590-127, "Rate Filing Exemptions", provides for those circumstances when an Individual Risk filing is permitted.

(b) An individual risk filing must be filed with the commissioner.

(i) The filing shall consist of a copy of the Declarations Page, copies of any pertinent coverage forms and rating schedules, and premium development.

(ii) The Filing Description must indicate that it is an individual risk filing, and contain the underwriter's explanation for the filing.

(14) Information Regarding Dividend Plan.

(a) Sections 31A-19a-210 and 31A-21-310 allow for dividend distributions.

(b) A plan or schedule for the distribution of a dividend developed AFTER THE INCEPTION of a policy is NOT

considered a rating plan and does not have to be filed according to the provisions of this rule.

(c) A plan or schedule for the distribution of a dividend applicable to an insurance policy FROM ITS INCEPTION are required to be filed pursuant to Section 31A-21-310.

(15) The Utah Insurance Code allows tiered rating plans within one insurer or insurer group with common ownership.

(a) A filing must show that the tiers are based on mutually exclusive underwriting rules, which are based on clear, objective criteria that would lead to a logical distinguishing of potential risk.

(b) A filing must provide supporting information that shows a clear distinction between the expected losses and expenses for each tier.

(c) If an insurer group is using a tiered rating structure, the group of insurers cannot all file the same loss cost multiplier and then file standard percentage deviations.

(i) A difference must be demonstrated in the loss cost multiplier formula, either as a modification of the RSO prospective loss cost or in the insurer expense factor.

(ii) An individual insurer adjustment or modification must be supported by actuarial data which establishes a reasonable standard for measuring probable insurer variations in historical or prospective experience, underwriting standards, expense and profit factors.

#### **R590-225-9. Additional Procedures for Workers Compensation Rate Filings.**

The following are additional procedures for workers' compensation rate filings:

(1) Rates and supplementary information must be filed 30 days before they can be used.

(2)(a) Each insurer must individually determine the rates it will file.

(b) Filed rates.

(i) An insurer's workers' compensation filed rates are the combination of the most current prospective loss cost filed by the designated rate service organization and the insurers loss cost adjustment, known as the loss cost multiplier (LCM), as calculated and filed using the "Utah Worker's Compensation Insurer Loss Cost Multiplier Filing Form."

(ii) Each insurer must implement the designated rate service organization's current prospective loss cost on the effective date assigned by the designated rate service organization. INSURERS MAY NOT DEFER NOR DELAY ADOPTION.

(iii) An insurer's filed loss cost multiplier will remain in effect until the insurer withdraws it or files a new loss cost multiplier.

(iv) Upon receipt of subsequent designated rate service organization reference filings, the insurer's filed rates are the combination of the designated RSO's prospective loss cost and the loss cost multiplier contained in the insurer's most current "Utah Loss Cost Multiplier Filing Form" on file with the department.

(3) An insurer may file a modification to the designated rate service organization prospective loss cost in the subject reference filing based on its own anticipated experience. Supporting documentation will be required for any modifications, upwards or downwards, of the designated rate service organization prospective loss cost.

(4) An insurer may vary expense loads by individual classification or grouping. An insurer may use variable or fixed expense loads or a combination of these to establish its expense loadings. However, an insurer is required to file data in accordance with the uniform statistical plan filed by the designated rate service organization.

(5) When submitting a filing for a workers compensation rating plan, a rating modification plan, or a credit and debit plan, an insurer must include in the filing the following or it will be rejected as incomplete:

(a) a statement identifying the arithmetic process to be used and whether factors will be added or multiplied when applying them to base rates; and

(b) justification for the method used.

(6) To the extent that an insurer's rates are determined solely by applying its loss cost multiplier, as presented in the "Utah Worker's Compensation Insurer Loss Cost Multiplier Filing Forms" to the prospective loss cost contained in a designated rate service organization reference filing and printed in the designated rate service organization's rating manual, the insurer need not develop or file its rate pages with the commissioner. If an insurer chooses to print and distribute rate pages for its own use, based solely upon the application of its filed loss cost multiplier, the insurer need not file those pages with the insurance commissioner.

**R590-225-10. Additional Procedures for Title Rate Filings.**

(1) Title rate and a supplementary information filing are "File Before Use" filings. Rates and supplementary information shall be filed with the commissioner 30 days prior to use.

(2) Each change or amendment to any schedule of rates shall state the effective date of the change or amendment, which may not be less than 30 days after the date of filing. Any change or amendment remains in force for a period of at least 90 days from its effective date.

(3) Supplementary information and rate filings must be supported and justified by each insurer. Justification must include submission of all factors used in determining initial supplementary information and rates or changes in existing supplementary information and rates along with a complete explanation as to the extent to which each factor has been used.

(4) Rates that vary by risk classification such as extended coverage or standard coverage, and all discount factors, such as refinancing, subdivision, or construction for purpose of resale discounts, must be supported by differences in expected losses or expenses.

(5) No rate may be filed or used which would require the title insurer or any title agency or producer to operate at less than the cost of doing business or adequately underwriting the title insurance policies.

**R590-225-11. Correspondence, and Status Checks.**

(1) Correspondence. When corresponding with the department, provide sufficient information to identify the original filing:

(a) type of insurance;

(b) date of filing; and

(c) Submission method, SERFF, or email; and

(d) tracking number

(2) Status Checks.

(a) A complete filing is usually processed within 45 days of receipt.

(b) A filer can request the status of its filing 60 days after the date of submission. A response will not be provided to a status request prior to 60 days.

**R590-225-12. Responses.**

(1) Response to a Filing Objection Letter. When responding to a Filing Objection letter a filer must:

(a) provide an explanation identifying all changes made;

(b) include an underline and strikeout version for each revised document;

(c) a final version of revised documents that incorporates all changes; and

(d) for filings submitted in [~~Serff~~]SERFF, attach the documents in Subsections R590-225-12(1)(b) and (c) to the appropriate Form Schedule or Rate/Rule Schedule tabs.

(3) Response to an Order to Prohibit Use.

(a) An Order to Prohibit Use becomes final 15 days after the date of the Order.

(b) Use of the filing must be discontinued not later than the date specified in the Order.

(c) To contest an Order to Prohibit Use, the commissioner must receive a written request for a hearing no later than 15 days after the date of the Order.

(d) A new filing is required if the licensee chooses to make the requested changes addressed in the Filing Objection Letter. The new filing must reference the previously prohibited filing.

**R590-225-13. Penalties.**

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

**R590-225-14. Enforcement Date.**

The commissioner will begin enforcing the revised provisions of this rule 15 days from the effective date of this rule.

**R590-225-15. Severability.**

If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

**KEY: property casualty insurance filing**

**Date of Enactment or Last Substantive Amendment:**  
[~~November 19, 2009~~]2010

**Notice of Continuation: March 12, 2009**

**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-201.1; 31A-2-202; 31A-19a-203**

**Insurance, Administration**  
**R590-257**  
**Standardized Health Benefit Plan**  
**Information Card**

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 33525

FILED: 03/31/2010

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to adopt standards for a health benefit plan information card. This rule is the result of H.B. 188, Health System Reform - Insurance Market, passed in 2009 and developed by the Health System Reform Task Force. (DAR NOTE: H.B. 188 (2009) is found at Chapter 12, Laws of Utah 2009, and was effective 03/1//2009.)

**SUMMARY OF THE RULE OR CHANGE:** The rule adopts a uniform standardized health benefit plan information card. Health insurers, third party administrators, and Public Employees Health Plan (PEHP) will be required to adopt and distribute the new cards to their new insureds and current insureds at renewal.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 31A-22-636

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The department will not be affected financially by these changes. Public Employees Health Plan (PEHP) will be required to make changes to their health benefit plan card and distribute to new insureds and current insureds at renewal.

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

◆ **SMALL BUSINESSES:** The cost to insurers to produce the health benefit plan cards will filter down to the insureds, of which will be small and large businesses, as well as individuals. This cost will be minor.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The cost to insurers to produce the health benefit plan cards will filter down to the insureds, of which will be small and large businesses, as well as individuals. This cost will be minor.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Minimal costs associated with insurers making changes to and reprinting health benefit plan cards and sending them to insureds at issue and renewal will filter down to their

insureds, which will include small and large businesses and individual consumers.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Minimal costs associated with insurers making changes to and reprinting health benefit plan cards and sending them to insureds at renewal will filter down to insureds which will include small and large businesses and individual consumers.

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)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/17/2010

**INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:**

◆ 05/10/2010 02:00 PM, State Office Building, 450 N State Street, Room B110, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 05/24/2010

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R590. Insurance, Administration.**

**R590-257. Standardized Health Benefit Plan Information Card.**

**R590-257-1. Authority.**

(1) This rule is promulgated pursuant to Section 31A-22-636 which authorizes the commissioner to adopt standardized electronic interchange technology.

**R590-257-2. Purpose and Scope.**

(1) The purpose of this rule is to adopt standards for a health benefit plan information card.

(2) This rule applies to:

(a) an accident and health insurer;

(b) a health maintenance organizations governed by Chapter 8, Health Maintenance Organizations and Limited Health Benefit Plans;

(c) a third party administrator; and

(d) notwithstanding Subsection 31A-1-103(3)(f) and Section 31A-22-600, a health, medical, or conversion policy offered under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act.



**R590-257-3. Health Benefit Plan Information Card.**

(1) Within 30 days, an entity described in R590-257-2(2) shall issue to an enrollee a health benefit plan information card upon the purchase or renewal of, or enrollment in, a health benefit plan.

(2) The health benefit plan information card must include:

(a) the required information described in Subsection 31A-22-636(3); and

(b) comply with Utah Health Information Network Standard number 6, Health Identification Card, version 1.1, hereby incorporated by reference and available on the department's website, [www.insurance.utah.gov](http://www.insurance.utah.gov).

**R590-257-4. Enforcement Date.**

The commissioner will begin enforcing this rule July 1, 2010.

**R590-257-5. Penalties.**

A person found to be in violation of this rule shall be subject to penalties as provided under 31A-2-308.

**R590-257-6. Severability.**

If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

**KEY: health benefit plan card**

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

**Authorizing, and Implemented or Interpreted Law: 31A-22-636**

**Natural Resources, Wildlife Resources  
R657-21  
Cooperative Wildlife Management Units  
for Small Game and Waterfowl**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 33497

FILED: 03/23/2010

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Wildlife Board meetings conducted for taking public input and reviewing the Cooperative Wildlife Management Unit (CWMU) program.

SUMMARY OF THE RULE OR CHANGE: Subsections R657-21-4(2)(c) and R657-21-5(1)(a) are being amended to delete "\$5 non-refundable" and replace it with "all nonrefundable handling and application fees in accordance with the fee schedule". This will allow the fee portion of this rule to be consistent with other division rules. The fee schedule is approved each year by the State Legislature.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-23-3

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: The amendment to this rule removes a set monetary fee and replaces it with the approved fee schedule. The Division of Wildlife Resources (DWR) determines that this amendment does not create a cost or savings impact to the state budget or DWR's budget.

◆ LOCAL GOVERNMENTS: None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ SMALL BUSINESSES: The amendment to this rule removes a set monetary fee and replaces it with the approved fee schedule. DWR determines that this amendment does not create a cost or savings impact to small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The amendment to this rule removes a set monetary fee and replaces it with the approved fee schedule. DWR determines that this amendment does not create a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendment to this rule removes a set monetary fee and replaces it with the approved fee schedule. The fee schedule is approved by the State Legislature after obtaining public comment through the Division's public input process. DWR determines that there are no additional compliance costs associated with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendment to this rule deletes a set monetary amount from the rule and replaces it with the approved fee schedule. DWR determines that there is not a fiscal impact on businesses associated with this amendment.

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

NATURAL RESOURCES  
WILDLIFE RESOURCES  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Division of Administrative Rules.

## DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/17/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/24/2010

AUTHORIZED BY: James Karpowitz, Director

**R657. Natural Resources, Wildlife Resources.****R657-21. Cooperative Wildlife Management Units for Small Game and Waterfowl.****R657-21-1. Purpose and Authority.**

Under authority of Section 23-23-3, this rule provides the procedures, standards, and requirements for Cooperative Wildlife Management Units for the hunting of small game and waterfowl.

**R657-21-4. Application for Certificate of Registration.**

(1) Applications for a CWMU are available from division offices.

(2) In addition to the application, the landowner or landowner association must provide:

(a) a petition containing the dated signature and acreage of each participating landowner agreeing to terms of this rule;

(b) two original 1:100,000 scale BLM Surface Management Status maps showing all interior and exterior boundaries, lands enrolled and not enrolled within the exterior boundaries, and the county identification tax numbers; and

(c) ~~[a \$5 non-refundable]~~ all nonrefundable handling and application fees in accordance with the fee schedule.

(3) The division may return any application that is incomplete or completed incorrectly.

(4) Applications must be completed and returned to the respective division regional office, in which the CWMU is located, 60 days prior to the applicable hunting season.

(5)(a) Upon receipt of the completed application, the division may issue a certificate of registration to a landowner or landowner association to operate a CWMU.

(b) Division review of the application may require up to 45 days.

(c) If an application is rejected, the division shall provide the landowner or landowner association with written notification of the reasons for rejection within 30 days from the date of rejection.

(6) Certificates of registration are issued annually and are effective from the date of issuance through June 30 of the following year.

**R657-21-5. Renewal of a Certificate of Registration.**

(1)(a) The landowner or landowner association may renew the certificate of registration for the CWMU by completing and submitting a renewal application, CWMU authorization sales report and ~~[a non-refundable \$5 renewal fee]~~ all nonrefundable handling and application fees in accordance with the fee schedule.

(b) The renewal application must be submitted at least 60 days prior to the applicable seasons.

(2) Any changes from the previous year's certificate of registration must be indicated on the renewal application.

(3)(a) If the landowner or landowner association requests additional land to be included in the CWMU, the application must contain the dated signature of each additional landowner, the county identification tax numbers of the additional land, and two 1:100,000 scale BLM Surface Management Status maps showing the new proposed interior and exterior boundaries.

(b) If the landowner or landowner association requests land to be withdrawn from the CWMU, the application must include a copy of the previously submitted petition with the appropriate landowners' signatures deleted and two 1:100,000 scale BLM Surface Management Status maps showing the land to be withdrawn and the new proposed interior and exterior boundaries.

**KEY: wildlife, small game, wildlife law**

**Date of Enactment or Last Substantive Amendment:**  
~~[September 6, 2005]~~ 2010

**Notice of Continuation: March 9, 2010**

**Authorizing, and Implemented or Interpreted Law: 23-23-3**

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

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 33513

FILED: 03/29/2010

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Utah Liquefied Petroleum Gas Board met in a regularly scheduled Board meeting on 03/04/2010 and by motion directed that an amendment be filed to Subsection R710-6-4(4.2) that would better clarify the intent of the certification examination requirement to receive a certificate of registration.

**SUMMARY OF THE RULE OR CHANGE:** In Subsection R710-6-4(4.2), the Board proposes to clarify the requirement to pass the initial examination for a certificate of registration and refer that requirement to the requirements in the adopted statute. The proposed amendment was recommended by legal counsel to clarify the administrative rule intent.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 53-7-305

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget because this proposed amendment is to clarify the requirement in the administrative

rule to complete the initial certification examination and put that requirement in concert with the adopted statute.

♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government because this proposed amendment is to clarify the requirement in the administrative rule to complete the initial certification examination and put that requirement in concert with the adopted statute.

♦ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses because this proposed amendment is to clarify the requirement in the administrative rule to complete the initial certification examination and put that requirement in concert with the adopted statute.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no effect to small businesses, businesses or local government entities, because this proposed amendment is to clarify the requirement in the administrative rule to complete the initial certification examination and put that requirement in concert with the adopted statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance costs for affected persons because this proposed amendment clarifies the requirement in the administrative rule to complete the initial certification examination and put that requirement in concert with the adopted statute.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/17/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/24/2010

AUTHORIZED BY: Ron Morris, Utah State Fire Marshal

#### **R710. Public Safety, Fire Marshal.**

##### **R710-6. Liquefied Petroleum Gas Rules.**

##### **R710-6-1. Adoption, Title, Purpose and Scope.**

Pursuant to Title 53, Chapter 7, Section 305, Utah State Code Annotated 1953, the Liquefied Petroleum Gas (LPG) Board adopts minimum rules to provide regulation to those who distribute,

transfer, dispense or install LP Gas and/or its appliances in the State of Utah.

There is adopted as part of these rules the following codes which are incorporated by reference:

1.1 National Fire Protection Association (NFPA), Standard 58, LP Gas Code, 2008 edition, except as amended by provisions listed in R710-6-8, et seq.

1.2 National Fire Protection Association (NFPA), Standard 54, National Fuel Gas Code, 2009 edition, except as amended by provisions listed in R710-6-8, et seq.

1.3 National Fire Protection Association (NFPA), Standard 1192, Standard on Recreational Vehicles, 2008 Edition, except as amended by provisions listed in R710-6-8, et seq.

1.4 International Fire Code (IFC), Chapter 38, 2006 edition, as published by the International Code Council, Inc. (ICC), except as amended by provisions listed in R710-6-8, et seq.

1.5 A copy of the above codes are on file with the Division of Administrative Rules, and the State Fire Marshal's Office. The definitions contained in the afore referenced codes shall also pertain to these rules.

1.6 Title.

These rules shall be known as "Rules Governing LPG Operations in the State of Utah" and may be cited as such, and will be hereinafter referred to as "these rules".

1.7 Validity.

If any article, section, subsection, sentence, clause, or phrase, of these rules is, for any reason, held to be unconstitutional, contrary to statute, or exceeding the authority of the LPG Board such decision shall not affect the validity of the remaining portion of these rules.

1.8 Conflicts.

In the event where separate requirements pertain to the same situation in the same code, or between different codes or standards as adopted, the more restrictive requirement shall govern, as determined by the enforcing authority.

##### **R710-6-2. Definitions.**

2.1 "ASME Stamp" means the symbol used to designate that the container has been built to the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code, Section VIII, Divisions 1 or 2, Rules for the Construction of Unfired Pressure Vessels.

2.2 "Board" means the Liquefied Petroleum Gas Board.

2.3 "Concern" means a person, firm, corporation, partnership, or association, licensed by the Board.

2.4 "Dispensing System" means equipment in which LP Gas is transferred from one container to another in liquid form.

2.5 "Division" means the Division of the State Fire Marshal.

2.6 "Enforcing Authority" means the division, the municipal or county fire department, other fire prevention agency acting within its respective fire prevention jurisdiction, or the building official of any city or county.

2.7 "ICC" means International Code Council, Inc.

2.8 "IFC" means International Fire Code.

2.9 "License" means a written document issued by the Division authorizing a concern to be engaged in an LPG business.

2.10 "LPG" means Liquefied Petroleum Gas.

2.11 "LPG Certificate" means a written document issued by the Division to any person for the purpose of granting permission to such person to perform any act or acts for which authorization is required.

2.12 "NFPA" means the National Fire Protection Association.

2.13 "Possessory Rights" means the right to possess LPG, but excludes broker trading or selling.

2.14 "Public Place" means a highway, street, alley or other parcel of land, essentially unobstructed, which is deeded, dedicated or otherwise appropriated to the public for public use, and where the public exists, travels, traverses or is likely to frequent.

2.15 "Qualified Instructor" means a person holding a valid LPG certificate in the area in which he is instructing.

2.16 "UCA" means Utah State Code Annotated 1953 as amended.

### **R710-6-3. Licensing.**

#### 3.1 Type of license.

3.1.1 Class I: A licensed dealer who is engaged in the business of installing gas appliances or systems for the use of LPG and who sells, fills, refills, delivers, or is permitted to deliver any LPG.

3.1.2 Class II: A business engaged in the sale, transportation, and exchange of cylinders, but not transporting or transferring gas in liquid.

3.1.3 Class III: A business not engaged in the sale of LPG, but engaged in the sale and installation of gas appliances, or LPG systems.

#### 3.1.4 Class IV: Those businesses listed below:

##### 3.1.4.1 Dispensers

3.1.4.2 Sale of containers greater than 96 pounds water capacity.

##### 3.1.4.3 Other LPG businesses not listed above.

3.2 The application for a license to engage in the business of LPG as required in 3.1 of these rules, shall be accompanied with proof of public liability insurance. The public liability insurance shall be issued by a public liability insurance carrier showing coverage of at least \$100,000 for each incident, and \$300,000 in total coverage. The licensee shall notify the SFM within thirty days after the public liability insurance coverage required is no longer in effect for any reason.

#### 3.3 Signature on Application.

The application shall be signed by an authorized representative of the applicant. If the application is made by a partnership, it shall be signed by at least one partner. If the application is made by a corporation or association other than a partnership, it shall be signed by the principal officers, or authorized agents.

#### 3.4 Issuance.

Following receipt of the properly completed application, an inspection, completion of all inspection requirements, and compliance with the provision of the statute and these rules, the Division shall issue a license.

#### 3.5 Original, Valid Date.

Original licenses shall be valid for one year from the date of application. Thereafter, each license shall be renewed annually and renewals thereof shall be valid for one year from issuance.

#### 3.6 Renewal.

Application for renewal shall be made on forms provided by the SFM.

#### 3.7 Refusal to Renew.

The Board may refuse to renew any license in the same manner, and for any reason, that they are authorized, pursuant to Article 5 of these rules to deny a license. The applicant shall, upon such refusal, have the same rights as are granted by Article 5 of this article to an applicant for a license which has been denied by the Board.

#### 3.8 Change of Address.

Every licensee shall notify the Division, in writing, within thirty (30) days of any change of his address.

#### 3.9 Under Another Name.

No licensee shall conduct his licensed business under a name other than the name or names which appears on his license.

#### 3.10 List of Licensed Concerns.

3.10.1 The Division shall make available, upon request and without cost, to the Enforcing Authority, the name, address, and license number of each concern that is licensed pursuant to these rules.

3.10.2 Upon request, single copies of such list shall be furnished, without cost, to a licensed concern.

#### 3.11 Inspection.

The holder of any license shall submit such license for inspection upon request of the Division or the Enforcing Authority.

#### 3.12 Notification and LPG Certificate.

Every licensed concern shall, within twenty (20) days of employment, and within twenty (20) days of termination of any employee, report to the Division, the name, address, and LPG certificate number, if any, of every person performing any act requiring an LPG certificate for such licensed concern.

#### 3.13 Posting.

Every license issued pursuant to the provisions of these rules shall be posted in a conspicuous place on the premises of the licensed location.

#### 3.14 Duplicate License.

A duplicate license may be issued by the Division to replace any previously issued license, which has been lost or destroyed, upon the submission of a written statement from the licensee to the Division. Such statement shall attest to the fact that the license has been lost or destroyed. If the original license is found it shall be surrendered to Division within 15 days.

#### 3.15 Registration Number.

Every license shall be identified by a number, delineated as P-(number).

#### 3.16 Accidents, Reporting.

Any accident where a licensee and LPG are involved must be reported to the Board in writing by the affected licensee within 3 days upon receipt of information of the accident. The report must contain any pertinent information such as the location, names of persons involved, cause, contributing factors, and the type of accident. If death or serious injury of person(s), or property damage of \$5000.00 or more results from the accident, the report must be made immediately by telephone and followed by a written report.

#### 3.17 Board investigation of accidents.

At their discretion, the Board will investigate, or direct the Division to investigate, all serious accidents as defined in Subsection 3.15.

**R710-6-4. LP Gas Certificates.**

## 4.1 Application.

Application for an LPG certificate shall be made in writing to the Division. The application shall be signed by the applicant.

## 4.2 Examination.

Every person who performs any act or acts [~~within the scope of a license issued under these rules~~]described in UCA, Section 53-7-308, shall pass an initial examination in accordance with the provisions of this article.

## 4.3 Types of Initial Examinations:

## 4.3.1 Carburetion

## 4.3.2 Dispenser

## 4.3.3 HVAC/Plumber

## 4.3.4 Recreational Vehicle Service

## 4.3.5 Serviceman

## 4.3.6 Transportation and Delivery

## 4.4 Initial Examinations.

4.4.1 The initial examination shall include an open book written test of the applicant's knowledge of the work to be performed by the applicant. The applicant is allowed to use the adopted statute, administrative rules, NFPA 54, and NFPA 58. Any other materials to include cellular telephones or related cellular equipment are prohibited in the examination room.

4.4.2 The initial examination may also include a practical or actual demonstration of some selected aspects of the job to be performed by the applicant if so warranted by the test administrator.

4.4.3 Leaving the office or testing location before the completion of the examination voids the examination and will require the examination to be retaken by the applicant.

4.4.4 To successfully complete the written and practical initial examinations, the applicant must obtain a minimum grade of seventy percent (70%) in each portion of the examination taken. Each portion of the examination will be graded separately. Failure of any one portion of the examination will not delete the entire test.

4.4.5 Completion of the certification examination will not be allowed if it appears to the test administrator that the applicant has not prepared to take the examination.

4.4.6 Examinations may be given at various field locations as deemed necessary by the Division. Appointments for field examinations are required.

4.4.7 As required in Sections 4.2 and 4.3 of these rules, those applicants that have successfully completed the requirements of the Certified Employee Training Program (CETP), as written by the National Propane Gas Association, and that corresponds to the work to be performed by the applicant, shall have the requirement for initial examination waived, after appropriate documentation is provided to the Division by the applicant.

4.4.8 As required in Sections 4.2 and 4.3.6 of these rules, those applicants that have successfully completed the requirements in Code of Federal Regulations (CFR) 49, Parts 172.700, 172.704, 177.800 and 177.816, that corresponds to the work to be performed by the applicant, shall have the requirement for initial examination waived, after appropriate documentation is provided to the Division by the applicant.

4.4.9 As required in Sections 4.2 and 4.3.3 of these rules, those applicants that have successfully completed the Rocky Mountain Gas Association, Natural Gas Technician Certification Exam with a passing score, shall have the requirement for initial

examination waived, after appropriate documentation is provided to the Division by the applicant.

4.4.10 As required in Sections 4.2 and 4.3.3 of these rules, those applicants that are licensed journeyman plumbers as required in the Constructions Trades Licensing Act Plumber Licensing Rules, R156-55c, shall have the requirement for initial examination waived, after appropriate documentation is provided to the Division by the applicant.

## 4.5 Original and Renewal Date.

Original LPG certificates shall be valid for one year from the date of issuance. Thereafter, each LPG certificate shall be renewed annually and renewals thereof shall be valid from for one year from issuance.

## 4.6 Renewal Date.

Application for renewal shall be made on forms provided by the Division.

## 4.7 Re-examination.

Every holder of a valid LPG Certificate shall take a re-examination every five years from the date of original certificate issuance, to comply with the provisions of Section 4.3 of these rules as follows:

4.7.1 The re-examination to comply with the provisions of Section 4.3 of these rules shall consist of an open book examination, to be mailed to the certificate holder at least 60 days before the renewal date.

4.7.2 The open book re-examination will consist of questions that focus on changes in the last five years to NFPA 54, NFPA 58, the statute, or the adopted administrative rules. The re-examination may also consist of questions that focus on practices of concern as noted by the Board or Division.

4.7.3 The certificate holder is responsible to complete the re-examination and return it to the Division in sufficient time to renew.

4.7.4 The certificate holder is responsible to return to the Division with the re-examination the correct renewal fees to complete that certificate renewal.

4.7.5 As required in Section 4.7 of these rules, those applicants that have successfully completed the requirements in Code of Federal Regulations (CFR) 49, Parts 172.700, 172.704, 177.800 and 177.816, that corresponds to the work to be performed by the applicant, shall have the requirement for re-examination waived, after appropriate documentation is provided to the Division by the applicant.

4.7.6 As required in Section 4.7 of these rules, those applicants that provide the Division with written verification of the completion of 40 hours of continuing training over the previous five-year period shall have the requirement for re-examination waived.

## 4.8 Refusal to Renew.

The Division may refuse to renew any LPG certificate in the same manner and for any reason that is authorized pursuant to Section 5.2 of these rules.

## 4.9 Inspection.

The holder of a LPG certificate shall submit such certificate for inspection, upon request of the Division or the enforcing authority.

## 4.10 Type.

4.10.1 Every LPG certificate shall indicate the type of act or acts to be performed and for which the applicant has qualified.

4.10.2 Any person holding a valid LPG certificate shall not be authorized to perform any act unless he is a licensee or is employed by a licensed concern.

4.10.3 It is the responsibility of the LPG certificate holder to insure that the concern they are employed by is licensed under this act.

4.11 Change of Address.

Any change in home address of any holder of a valid LPG certificate shall be reported by the registered person to the Division within thirty (30) days of such change.

4.12 Duplicate.

A duplicate LPG certificate may be issued by the Division to replace any previously issued certificate which has been lost or destroyed upon the submission of a written statement to the Division from the certified person. Such statement shall attest to the certificate having been lost or destroyed. If the original is found, it shall be surrendered to the Division within 15 days.

4.13 Contents of Certificate of Registration.

Every LPG certificate issued shall contain the following information:

4.13.1 The name and address of the applicant.

4.13.2 The physical description of applicant.

4.13.3 The signature of the LP Gas Board Chairman.

4.13.4 The date of issuance.

4.13.5 The expiration date.

4.13.6 Type of service the person is qualified to perform.

4.13.7 Have printed on the card the following: "This certificate is for identification only, and shall not be used for recommendation or advertising".

4.14 Minimum Age.

No LPG certificate shall be issued to any person who is under sixteen (16) years of age.

4.15 Restrictive Use.

4.15.1 No LPG certificate shall constitute authorization for any person to enforce any provisions of these rules.

4.15.2 A LPG certificate may be used for identification purposes only as long as such certificate remains valid and while the holder is employed by a licensed concern.

4.15.3 Regardless of the acts for which the applicant has qualified, the performance of only those acts authorized under the licensed concern employing such applicant shall be permissible.

4.15.4 Regardless of the acts authorized to be performed by a licensed concern, only those acts for which the applicant for a LPG certificate has qualified shall be permissible by such applicant.

4.16 Right to Contest.

4.16.1 Every person who takes an examination for a LPG certificate shall have the right to contest the validity of individual questions of such examination.

4.16.2 Every contention as to the validity of individual questions of an examination that cannot be reasonably resolved, shall be made in writing to the Division within 48 hours after taking said examination. Contentions shall state the reason for the objection.

4.16.3 The decision as to the action to be taken on the submitted contention shall be by the Board, and such decision shall be final.

4.16.4 The decision made by the Board, and the action taken, shall be reflected in all future examinations, but shall not affect the grades established in any past examination.

4.17 Non-Transferable.

LPG Certificates shall not be transferable to another individual. Individual LPG certificates shall be carried by the person to whom issued.

4.18 New Employees.

New employees of a licensed concern may perform the various acts while under the direct supervision of persons holding a valid LPG certificate for a period not to exceed 45 days from the initial date of employment. By the end of such period, new employees shall have taken and passed the required examination. In the event the employee fails the examination, re-examination shall be taken within 30 days. The employee shall remain under the direct supervision of an employee holding a valid LPG certificate, until certified.

4.19 Certificate Identification.

Every LPG certificate shall be identified by a number, delineated as PE-(number). Such number shall not be transferred from one person to another.

**R710-6-5. Adjudicative Proceedings.**

5.1 All adjudicative proceedings performed by the agency shall proceed informally as set forth herein and as authorized by UCA, Sections 63G-4-202 and 63G-4-203.

5.2 The issuance, renewal, or continued validity of a license or LPG certificate may be denied, suspended or revoked by the Division, if the Division finds that the applicant, person employed for, or the person having authority and management of a concern commits any of the following violations:

5.2.1 The person or applicant is not the real person in interest.

5.2.2 The person or applicant provides material misrepresentation or false statement in the application, whether original or renewal.

5.2.3 The person or applicant refuses to allow inspection by the Division or enforcing authority on an annual basis to determine compliance with the provisions of these rules.

5.2.4 The person, applicant, or concern for a license does not have the proper or necessary facilities, including qualified personnel, to conduct the operations for which application is made.

5.2.5 The person or applicant for a LPG certificate does not possess the qualifications of skill or competence to conduct the operations for which application is made. This can also be evidenced by failure to pass the examination and/or practical tests.

5.2.6 The person or applicant refuses to take the examination.

5.2.7 The person or applicant has been convicted of a violation of one or more federal, state or local laws.

5.2.8 The person or applicant has been convicted of a violation of the adopted rules or been found by a Board administrative proceeding to have violated the adopted rules.

5.2.9 Any offense of finding of unlawful conduct, or there is or may be, a threat to the public's health or safety if the person or applicant were granted a license or certificate of registration.

5.2.10 There are other factors upon which a reasonable and prudent person would rely to determine the suitability of the person or applicant to safely and competently distribute, transfer, dispense or install LP Gas and/or it's appliances.

5.2.11 The person or applicant does not complete the re-examination process by the person or applicants certificate or license expiration date.

5.2.12 The person or applicant fails to pay the license fee, certificate of registration fee, examination fee or other fees as required in Section 6 of these rules.

5.3 A person whose license or certificate of registration is suspended or revoked by the Division shall have an opportunity for a hearing before the LPG Board if requested by that person within 20 days after receiving notice.

5.4 All adjudicative proceedings, other than criminal prosecution, taken by the Enforcing Authority to enforce the Liquefied Petroleum Gas Section, Utah Fire Prevention and Safety Act, and these rules, shall commence in accordance with UCA, Section 63G-4-201.

5.5 The Board shall act as the hearing authority, and shall convene after timely notice to all parties involved. The Board shall be the final authority on the suspension or revocation of a license or certificate of registration.

5.6 The Board shall direct the Division to issue a signed order to the parties involved giving the decision of the Board within a reasonable time of the hearing pursuant to UCA, Section 63G-4-203.

5.7 Reconsideration of the Board's decision may be requested in writing within 20 days of the date of the decision pursuant to UCA, Section 63G-4-302.

5.8 After a period of three (3) years from the date of revocation, the Board may review the written application of a person whose license or certificate of registration has been revoked.

5.9 Judicial review of all final Board actions resulting from informal adjudicative proceedings is available pursuant to UCA, Section 63G-4-402.

#### **R710-6-6. Fees.**

##### 6.1 Fee Schedule.

##### 6.1.1 License and LPG Certificates (new and renewals):

##### 6.1.1.1 License

6.1.1.1.1 Class I - \$450.00

6.1.1.1.2 Class II - \$450.00

6.1.1.1.3 Class III - \$105.00

6.1.1.1.4 Class IV - \$150.00

6.1.1.2 Branch office license - \$338.00

6.1.1.3 LPG Certificate - \$40.00

6.1.1.4 LPG Certificate (Dispenser--Class B) - \$20.00

6.1.1.5 Duplicate - \$30.00

##### 6.1.2 Examinations:

6.1.2.1 Initial examination - \$30.00

6.1.2.2 Re-examination - \$30.00

6.1.2.3 Five year examination - \$30.00

##### 6.1.3 Plan Reviews:

6.1.3.1 More than 5000 water gallons of LPG - \$150.00

6.1.3.2 5,000 water gallons or less of LPG - \$75.00

##### 6.1.4 Special Inspections.

6.1.4.1 Per hour of inspection - \$50.00

(charged in half hour increments with part half hours charged as full half hours).

6.1.5 Re-inspection (3rd Inspection or more) - \$250.00

6.1.6 Private Container Inspection (More than one container) - \$150.00

6.1.7 Private Container Inspection (One container) - \$75.00

##### 6.2 Payment of Fees.

The required fee shall accompany the application for license or LPG certificate or submission of plans for review.

##### 6.3 Late Renewal Fees.

6.3.1 Any license or LPG certificate not renewed on or before one year from the original date of issuance will be subject to an additional fee equal to 10% of the required fee.

6.3.2 When an LPG certificate has expired for more than one year, an application shall be made for an original certificate as if the application was being taken for the first time. Examinations will be retaken with initial examination fees.

#### **R710-6-7. Board Procedures.**

7.1 The Board will review the Division and Enforcing Authorities activities since the last meeting, and review and act on license and permit applications, review financial transactions, consider recommendations of the Division, and all other matters brought to the Board.

7.2 The Board may be asked to serve as a review board for items under disagreement.

7.3 Board meetings shall be presided over and conducted by the chairman and in his absence the vice chairman.

7.4 Meetings of the Board shall be conducted in accordance with an agenda, which shall be submitted to the members by the Division, not less than twenty-one (21) days before the regularly scheduled Board meeting.

7.5 The chairman of the Board and Board members shall be entitled to vote on all issues considered by the Board. A Board member who declares a conflict of interest or where a conflict of interest has been determined, shall not vote on that particular issue.

7.6 Public notice of Board meetings shall be made by the Division as prescribed in UCA Section 52-4-6.

7.7 The Division shall provide the Board with a secretary, who shall prepare minutes and shall perform all secretarial duties necessary for the Board to fulfill its responsibility. The minutes of Board meetings shall be completed and sent to Board members at least twenty-one (21) days prior to the scheduled Board meeting.

7.8 The Board may be called upon to interpret codes adopted by the Board.

7.9 The Board Chairman may assign member(s) various assignments as required to aid in the promotion of safety, health and welfare in the use of LPG.

#### **R710-6-8. Amendments and Additions.**

The following amendments and additions are hereby adopted by the Board:

8.1 All LP Gas facilities that are located in a public place shall be inspected by a certified LP Gas serviceman every five (5) years for leaks in all buried piping as follows:

8.1.1 All buried piping shall be pressure tested and inspected for leaks as set forth in NFPA Standard 54, Sections 4.1.1 through 4.3.4.

8.1.2 If a leak is detected and repaired, the buried piping shall again be pressure tested for leaks.

8.1.3 The certified LP Gas serviceman shall keep a written record of the inspection and all corrections made to the buried piping located in a public place.

8.1.4 The inspection records shall be available to be inspected on a regular basis by the Division.

8.2 Whenever the Division is required to complete more than two inspections to receive compliance on an LP Gas System, container, apparatus, appliance, appurtenance, tank or tank trailer, or any pertinent equipment for the storage, transportation or dispensation of LP Gas, the Division shall charge to the owner for each additional inspection, the re-inspection fee as stated in R710-6-6.1(e).

8.3 All LP Gas containers of more than 5000 water gallons shall be inspected at least biannually for compliance with the adopted statute and rules. The following containers are exempt from this requirement:

8.3.1 Those excluded from the act in UCA, Section 53-7-303.

8.3.2 Containers under federal control.

8.3.3 Containers under the control of the U.S. Department of Transportation and used for transportation of LP Gas.

8.3.4 Containers located at private residences.

8.4 Those using self-serve key or card services shall be trained in safe filling practices by the licensed dealer providing the services. A letter shall be sent to the Division by the licensed dealer stating that those using the self-serve key or card service have been trained.

8.5 IFC Amendments:

8.5.1 IFC, Chapter 38, Section 3801.2 Permits. On line 2 after the word "105.7" add "and the adopted LPG rules".

8.5.2 IFC, Chapter 38, Section 3803.1 is deleted and rewritten as follows: General. LP Gas equipment shall be installed in accordance with NFPA 54, NFPA 58, the adopted LP Gas Administrative Rules, and the International Fuel Gas Code, except as otherwise provided in this chapter.

8.5.3 IFC, Chapter 38, Section 3809.12 is deleted and rewritten as follows: In Table 3809.12, Doorway or opening to a building with two or more means of egress, with regard to quantities 720 or less and 721-2,500, the currently stated "5" is deleted and replaced with "10".

8.5.4 IFC, Chapter 38, Section 3809.14 is amended as follows: Delete "20" from line three and replace it with "10".

8.6 NFPA, Standard 58 Amendments:

8.6.1 NFPA, Standard 58, Section 5.2.1.1 is amended to add the following section: (c) All new, used or existing containers of 5000 water gallons or less, installed in the State of Utah or relocated within the State of Utah shall be marked with the ASME stamp as defined in Section 2.1 of these rules. All new, used or existing containers of more than 5000 water gallons, installed in the State of Utah or relocated within the State of Utah, shall be marked with the ASME stamp as defined in Section 2.1 of these rules, and shall be inspected for approval by the Division. If the Division has concerns about the integrity or condition of the container, additional nondestructive testing may be required to include but not limited to hydrostatic testing, ultrasonic metal thickness testing or any other testing as determined necessary by the Division. All incurred costs for additional testing required by the Division shall be the responsibility of the owner.

8.6.2 NFPA, Standard 58, Section 5.2.1.1 is amended to add the following section: (d) If an existing U68, U69, U200 or U201 specification container, more than 5000 water gallons, is

relocated within the State of Utah, and does not bear the required ASME stamp as defined in Section 2.1 of these rules, the container cannot be reinstalled unless the container has received a "Special Classification Permit" from the Division. Specifications of the type of container, container history if known, material specifications and calculations, and condition of the container shall be submitted to the Division by the person seeking the "Special Classification Permit". The Division shall inspect the container for approval. If the Division has concerns about the integrity or condition of the container, additional nondestructive tests such as hydrostatic testing, ultrasonic metal thickness testing or any other testing as determined necessary by the Division. All incurred costs of testing and evaluations shall be the responsibility of the owner. The Division will approve or disapprove the proposed container. Approval by the Division shall be obtained before the container is set or filled with LP Gas.

8.6.3 NFPA, Standard 58, Section 5.2.1.5 is amended to add the following sentence at the end of the section:

(A) Repairs and alterations shall only be made by those holding a National Board "R" Certificate of Authorization commonly known as an R Stamp.

8.6.4 NFPA Standard 58, Sections 5.9.3.2(3)(a) and (b) are deleted and rewritten as follows:

Type K copper tubing without joints below grade may be used in exterior LP Gas piping systems only.

8.6.5 NFPA, Standard 58, Section 6.6.1.2 is amended to add the following at the end of the section: When guard posts are installed they shall be installed meeting the following requirements:

8.6.5.1 Constructed of steel not less than four inches in diameter and filled with concrete.

8.6.5.2 Set with spacing not more than four feet apart.

8.6.5.3 Buried three feet in the ground in concrete not less than 15 inches in diameter.

8.6.5.4 Set with the tops of the posts not less than three feet above the ground.

8.6.6 NFPA, Standard 58, Section 6.6.3 is amended to add the following section: 6.6.3.9 Skid mounted ASME horizontal containers greater than 2000 water gallons, with non-fireproofed steel mounted attached supports, resting on concrete, pavement, gravel or firm packed earth, may be mounted on the attached supports to a maximum of 12 inches from the top of the skid to the bottom of the container.

8.6.7 NFPA, Standard 58, Section 6.6.6 is amended to add the following: (L) All metallic equipment and components that are buried or mounded shall have cathodic protection installed to protect the metal and shall meet the following requirements:

8.6.7.1 Sacrificial anodes shall be installed as required by the size of the container. If more than one sacrificial anode is required they shall be evenly distributed around the container.

8.6.7.2 Sacrificial anodes shall be connected to the container or piping as recommended by the manufacturer or using accepted engineering practices.

8.6.7.3 Sacrificial anodes shall be placed as near the bottom of the container as possible and approximately two feet away from the container.

8.6.8 NFPA, Standard 58, Section 6.24.3.16 is added as follows: On dispensing installations, 1000 gallon water capacity or less, where the dispensing cabinet is located next to the LP Gas container, stainless steel wire braid hose of more than 36 inches in



length may be used on vapor and liquid return lines only. The hose shall be secured and routed in a safe and professional manner, marked with the date of installation, and shall be replaced every five years from that installation date.

8.6.9 NFPA, Standard 58, Section 6.25.3.2, the last sentence of the section is deleted and rewritten as follows: Existing installations shall comply with this requirement by March 31, 2011.

8.6.10 NFPA, Standard 58, Section 8.4.1.1(1) is amended as follows: On line one remove "5ft (1.5m)" and replace it with "10 ft (3m)".

**R710-6-9. Penalties.**

9.1 Civil penalties for violation of any rule or referenced code shall be as follows:

9.1.1 Concern failure to license - \$210.00 to \$900.00

9.1.2 Person failure to obtain LPG Certificate - \$30.00 to \$90.00

9.1.3 Failure of concern to obtain LPG Certificate for employees who dispense LPG - \$210.00 to \$900.00

9.1.4 Concern doing business under improper class - \$140.00 to \$600.00

9.1.5 Failure to notify SFM of change of address - \$60.00

9.1.6 Violation of the adopted Statute or Rules - \$210.00 to \$900.00

9.2 Rationale.

9.2.1 Double the fee plus the cost of the license.

9.2.2 Double the fee plus the cost of the certificate.

9.2.3 Double the fee plus the cost of the license.

9.2.4 Double the fee.

9.2.5 Based on two hours of inspection fee at \$30.00 per hour.

9.2.6 Triple the fee.

**KEY: liquefied petroleum gas**

**Date of Enactment or Last Substantive Amendment:** ~~March 24, 2010~~ **May 24, 2010**

**Notice of Continuation:** **March 30, 2006**

**Authorizing, and Implemented or Interpreted Law:** **53-7-305**

**Public Service Commission,  
Administration**

**R746-331**

**Determination of Exemption of Mutual  
Water Corporations**

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 33472

FILED: 03/22/2010

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The current rule addresses a process and criteria by which the Public Service Commission (Commission) would determine whether a water company is or is not within the Commission's regulatory jurisdiction. Some of the criteria do not relate to statutory provisions. Application of the rule has caused some confusion in Commission supervision of water companies. Repeal of the rule and direct application of the statutory provisions is now viewed by the Commission as the better course to follow.

**SUMMARY OF THE RULE OR CHANGE:** Rule R746-331 will be repealed in its entirety.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 54-4-1 and Subsection 54-2-1(16)

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** No costs or savings are anticipated. Resolution of whether a water company is or is not within the Commission's jurisdiction will continue to be made through review of material and application of statutory provisions to factual circumstances as has occurred in the past.

♦ **LOCAL GOVERNMENTS:** No costs or savings will occur. The Commission has no regulatory authority over municipal water services provided by municipal utilities operated by local government entities.

♦ **SMALL BUSINESSES:** No additional costs or savings are anticipated. Water companies subject to Commission authority will continue to be regulated as in the past and water companies outside of the Commission's jurisdiction will remain outside the Commission's authority.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Water companies currently subject to the Commission's jurisdiction will remain so and will continue to be regulated in the same fashion as prior to the rule repeal. There should be no additional savings or costs as there will be no change in regulation.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There will be no change in compliance costs. Determination of whether a water company is or is not subject to Commission authority will continue to be made, but upon the provisions of Title 54.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The current rule includes consideration of criteria which are not directly relevant to the consideration of whether an entity is or is not a public utility. Repeal of the rule will not have any fiscal impact upon those companies that are public utilities, nor those that are not public utilities.

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

PUBLIC SERVICE COMMISSION  
ADMINISTRATION

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:**

♦ Sandy Mooy by phone at 801-530-6708, by FAX at 801-530-6796, or by Internet E-mail at smooy@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/17/2010**

**THIS RULE MAY BECOME EFFECTIVE ON: 05/24/2010**

**AUTHORIZED BY: Sandy Mooy, Legal Counsel**

**R746. Public Service Commission, Administration.**

~~**[R746-331. Determination of Exemption of Mutual Water Corporations:**~~

~~**R746-331-1. Conditions for Finding of Exemption.**~~

~~A. Upon the Commission's own motion, complaint of a person, or request of an entity desiring a finding of exemption, the Commission may undertake an inquiry to determine whether an entity organized as a mutual, non-profit corporation, furnishing culinary water, is outside the Commission's jurisdiction.~~

~~B. In conducting the inquiry, the Commission shall elicit information from the subject of the inquiry concerning:~~

~~1. the organizational form of the entity and its compliance status with the Utah Division of Corporations;~~

~~2. ownership and control of assets necessary to furnish culinary water service, including water sources and plant;~~

~~3. ownership and voting control of the entity. To elicit this information, the Commission may adopt a questionnaire asking for the information in form and in detail that the Commission shall find necessary to make its jurisdictional determination; the questionnaire may include a requirement that documentation be furnished therewith, including copies of articles of incorporation, and effective amendments thereto, filed with the Utah Division of Corporations and certified by that agency, together with a certificate of good standing therewith.~~

~~C. If, on the basis of the information elicited, the Commission finds that the entity is an existing non-profit corporation, in good standing with the Division of Corporations; that the entity owns or otherwise adequately controls the assets necessary to furnish culinary water service to its members, including water sources and plant; and that voting control of the entity is distributed in a way that each member enjoys a complete commonality of interest, as a consumer, such that rate regulation would be superfluous, then the Commission shall issue its finding that the entity is exempt from Commission jurisdiction, and the proceeding shall end. Issuance of the finding shall not preclude another Commission inquiry at a later time if changed circumstances or later discovered facts warrant another inquiry.~~

~~D. If, on the basis of the information elicited, the Commission determines that the entity is subject to Commission jurisdiction, the Commission shall initiate the proceedings, including an Order to Show Cause, as shall be necessary to assert Commission jurisdiction.~~

**KEY: mutual water corporations\*, public utilities, water**  
**Date of Enactment or Last Substantive Amendment: April 6, 1998**  
**Notice of Continuation: April 1, 2008**  
**Authorizing, and Implemented or Interpreted Law: 54-2-1]**

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

# NOTICES OF 120-DAY (EMERGENCY) RULES

---

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (. . . . .) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule.

Because **120-DAY RULES** are effective immediately, the law does not require a public comment period. However, when an agency files a **120-DAY RULE**, it usually files a **PROPOSED RULE** at the same time, to make the requirements permanent. Comments may be made on the **PROPOSED RULE**. Emergency or **120-DAY RULES** are governed by Section 63G-3-304; and Section R15-4-8.

---

## Health, Health Care Financing, Coverage and Reimbursement Policy **R414-320-7** Creditable Health Coverage

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

DAR FILE NO.: 33529

FILED: 04/01/2010

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This change ensures the government funds that subsidize the purchase of health insurance plans are only used for plans that meet the requirements of federal law, which restricts the use of federal funds to cover abortion services.

**SUMMARY OF THE RULE OR CHANGE:** Subsidies through Utah's Premium Partnership for Health Insurance (UPP) will not be paid to individuals who enroll in health plans that cover abortion services beyond the limited circumstances required under federal law.

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

**REGULAR RULEMAKING WOULD** cause an imminent budget reduction because of budget restraints or federal requirements; or would place the agency in violation of

federal or state law.

This change is necessary to comply with restrictions on the use of federal funds for abortion, and is in accordance with the Patient Protection and Affordable Care Act (Exec. Order No. 13535, 75 Fed. Reg. 15599 (March 24, 2010)).

#### ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This change may result in minimal savings to the state budget. Nevertheless, it is impossible to know at this time how many individuals or families would become ineligible for the UPP program if their health plan were to cover elective abortion.

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

◆ **SMALL BUSINESSES:** This change may result in a minimal reduction in health care premium costs if families drop their health insurance at work. Nevertheless, it is impossible to know at this time how many individuals or families would become ineligible for the UPP program if their health plan were to cover elective abortion.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This change may result in a minimal loss in revenue to health plans if families drop their health insurance. Nevertheless, it is impossible to know at this time how many individuals or families would become ineligible for the UPP program if their health plan were to cover elective abortion.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There may be limited loss of income for health plans and out-of-pocket expenses to an individual or family. Nevertheless, it is impossible to know at this time how many individuals or

families would become ineligible for the UPP program if their health plan were to cover elective abortion.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Changes in federal law and executive orders require this rule change to assure compliance with federal and state law.

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: 04/01/2010

AUTHORIZED BY: David Sundwall, MD, Executive Director

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

**R414-320. Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver.**

**R414-320-7. Creditable Health Coverage.**

(1) The Department adopts 42 CFR 433.138(b), 2007 ed., which is incorporated by reference.

(2) An individual who is covered under a group health plan or other creditable health insurance coverage, as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), is not eligible for enrollment.

(a) An applicant who is covered by COBRA continuation coverage may be eligible for UPP enrollment.

(3) An individual is not eligible for UPP if the individual enrolls in an employer-sponsored health plan or in COBRA continuation coverage that covers abortion services for any reason other than in the case where the life of the mother would be endangered if the fetus is carried to term or in the case of rape or incest.

([3]4) Eligibility for an individual who has access to but has not yet enrolled in employer-sponsored health insurance coverage will be determined as follows:

(a) If the cost of the employer-sponsored coverage is less than 5% of the household's gross income, the individual is not eligible for the UPP program.

(b) For adults, if the cost of the employer-sponsored coverage exceeds 15% of the household's gross income the adult

may choose to enroll in the UPP program or may choose direct coverage through the Primary Care Network program if enrollment has not been stopped under the provisions of R414-310-16.

(c) A child may choose enrollment in UPP or direct coverage under the CHIP program if the cost of the employer sponsored coverage is equal to or more than 5% of the household's gross income.

([4]5) An individual who is covered under Medicare Part A or Part B, or who could enroll in Medicare Part B coverage, is not eligible for enrollment, even if the individual must wait for a Medicare open enrollment period to apply for Medicare benefits.

([5]6) An individual who is enrolled in the Veteran's Administration (VA) Health Care System is not eligible for enrollment. An individual who is eligible to enroll in the VA Health Care System, but who has not yet enrolled, may be eligible for the UPP program while waiting for enrollment in the VA Health Care System to become effective. To be eligible during this waiting period, the individual must initiate the process to enroll in the VA Health Care System. Eligibility for the UPP program ends once the individual becomes enrolled in the VA Health Care System.

([6]7) The Department shall deny eligibility if the applicant, spouse, or dependent child has voluntarily terminated health insurance coverage within the 90 days immediately prior to the application date for enrollment under the UPP program.

(a) An applicant, applicant's spouse, or dependent child can be eligible for the UPP program if their prior insurance ended more than 90 days before the application date.

(b) An applicant, applicant's spouse, or dependent child who voluntarily discontinues health insurance coverage under a COBRA plan, or under the Utah Comprehensive Health Insurance Pool, or who is involuntarily terminated from an employer's plan may be eligible for the UPP program without a 90 day waiting period.

([7]8) An individual with creditable health coverage operated or financed by Indian Health Services may enroll in the UPP program.

([8]9) Individuals must report at application and recertification whether each individual for whom enrollment is being requested has access to or is covered by a group health plan or other creditable health insurance coverage. This includes coverage that may be available through an employer or a spouse's employer, Medicare Part A or B, the VA Health Care System, or COBRA continuation coverage.

([9]10) The Department shall deny an application or recertification if the applicant or enrollee fails to respond to questions about health insurance coverage for any individual the household seeks to enroll or recertify.

**KEY: CHIP, Medicaid, PCN, UPP**

**Date of Enactment or Last Substantive Amendment: April 1, 2010**

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

**Insurance, Administration**  
**R590-247-3**  
**General Instructions**

**NOTICE OF 120-DAY (EMERGENCY) RULE**  
 DAR FILE NO.: 33505  
 FILED: 03/24/2010

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** H.B. 294 was passed by the Utah Legislature in the 2010 General Session and was effective 03/22/2010. The bill includes a change to Section 31A-22-635, Development of Uniform Health Insurance Application--Uniform waiver of coverage. The changes deal with what can be required for employees waiving coverage. New wording requires the use of a uniform waiver of coverage form that limits what can be asked. The Department is in the process of working with the insurance industry to develop this form but until it is completed, guidelines need to be provided to the health care industry. The changes to this rule will implement similar requirements that be in the waiver when developed. (DAR NOTE: H.B. 294 (2010) is found at Chapter 68, Laws of Utah 2010, and was effective 03/22/2010.)

**SUMMARY OF THE RULE OR CHANGE:** Changes to the rule require health insurers to limit the questions in their uniform health insurance application waivers as now required in Subsection 31A-22-635(2)(a)(ii).

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 31A-22-635 and Section 31A-30-102

**REGULAR RULEMAKING WOULD** place the agency in violation of federal or state law. H.B. 294 (2010) passed and was effective 03/22/2010, and requires the Department to put into effect the same date, a waiver to be used with all universal health insurance applications. The waiver is to limit the questions an employee can be asked. The emergency rule instructs health insurers how this is to be complied with in the interim until the waiver is developed and put into effect by rule.

**ANTICIPATED COST OR SAVINGS TO:**  
 ♦ **THE STATE BUDGET:** The change to this rule will create no additional work or revenues nor will there be a cost savings for the Department. The rule simply limits the questions that can be asked on a waiver when an employee waives coverage.  
 ♦ **LOCAL GOVERNMENTS:** This rule deals solely with the relationship between the Department and their health insurance licensees. It will have no impact on local government.

♦ **SMALL BUSINESSES:** This change affects health insurance policies sold to small employers with less than 50 employees. It will affect the questions an employee will have to answer in relation to an insurance waiver they fill out. The change in the questions to be asked will have no fiscal impact on the employer or the employee except that there will be fewer questions to answer. The waiver applies to employees that waive health insurance coverage which means there is no coverage, no benefits, and no premium for the employee.  
 ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule does not apply to large employers. It applies to employees waiving health coverage so there is no cost to them. Depending on how the insurer makes the changes to their waiver form there may be some minor cost.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Small employers and insureds will not be impacted financially. The insured will have fewer questions to answer. The insurer may have minor costs associated with changing their waiver to conform to the rule.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The changes to this rule will have no fiscal impact on small employers. It may have a minor fiscal impact on health insurers doing business in Utah.

**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)

**EFFECTIVE:** 03/24/2010

**AUTHORIZED BY:** Jilene Whitby, Information Specialist

---

**R590. Insurance, Administration.**  
**R590-247. Universal Health Insurance Application Rule.**  
**R590-247-3. General Instructions.**

- (1) Use of the Utah Individual Health Insurance Application and the Utah Small Employer Health Insurance Application by insurers or by health insurance producers is mandatory.
- (2) The Utah Individual Health Insurance Application and Utah Small Employer Health Insurance Application must be used without insurer identifying logos or addresses to facilitate multiple insurer submissions using a single application.

(3) The Utah Individual Health Insurance Application and Utah Small Employer Health Insurance Application can be downloaded from the Department's website at [www.insurance.utah.gov](http://www.insurance.utah.gov).

(4) The Utah Individual Health Insurance Application and Utah Small Employer Health Insurance Application may only be altered for:

(a) purposes of electronic application and submission, including electronic signature disclaimers;

(b) languages other than English; and

(c) reasons specifically approved by the commissioner.

(5) The use of the Utah Individual Health Insurance Application and the Utah Small Employer Health Insurance Application does not limit the ability of an insurer to obtain additional information for underwriting purposes.

(6) Section L, Producer Agreement and Compensation Disclosure section on the Utah Individual Health Insurance Application must include all information to be disclosed as required by Section 31A-23a-501.

(7) Question number 40 on the Utah Individual Health Insurance Application and Utah Small Employer Health Insurance Application may not be used for purposes of Sections 31A-8-402.3, 31A-8-402.5, 31A-21-105, 31A-22-721, 31A-30-107, 31A-30-107.1, or R590-247-3(5), unless the information was

disclosed or should have been disclosed in another question on the application.

(8)(a) Starting July 1, 2009, insurers shall accept the Utah Individual Health Insurance Application and Utah Small Employer Health Insurance Application.

(b) An insurer may accept an application other than the Utah Individual Health Insurance Application and Utah Small Employer Health Insurance Application until December 31, 2009.

(9) No later than July 1, 2010, all insurers shall offer compatible systems for electronic submission of the Utah Individual Health Insurance Application and the Utah Small Employer Health Insurance Application.

(10) Effective March 24, 2010, if an employee chooses to waive coverage, an insurer shall not require such employee to complete any section of the Utah Small Employer Health Insurance Application other than sections A, B, D, E, questions 1 and 2 of section G, and J.

**KEY: universal health insurance application**

**Date of Enactment or Last Substantive Amendment: March 24, 2010**

**Authorizing, and Implemented or Interpreted Law: 31A-30-102; 31A-22-635**

**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.

---

## Environmental Quality, Drinking Water **R309-100** Administration: Drinking Water Program

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

DAR FILE NO.: 33468  
FILED: 03/22/2010

### **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: Section 19-4-104 establishes the drinking water program, including the standards, construction, variances, operator certification, and orders.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either in support or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that the drinking water program administration is firmly established in the state of Utah. It defines a public water system, which are the systems that the Division of Drinking Water can and does regulate. It sets forth the requirements and conditions of sanitary surveys, gives a rating system to public water systems, and establishes the variances and exemptions.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Rachael Cassady by phone at 801-536-4467, by FAX at 801-536-4211, or by Internet E-mail at [rcassady@utah.gov](mailto:rcassady@utah.gov)

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

---

## Environmental Quality, Drinking Water **R309-105** Administration: General Responsibilities of Public Water Systems

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

DAR FILE NO.: 33473  
FILED: 03/22/2010

### **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: Section 19-4-104 gives the Drinking Water Board the authority to establish the general responsibilities of public drinking water systems in Utah. These responsibilities include variances or exemptions from monitoring, construction standards, operator certification, cross connection control, reporting, record maintenance, and emergencies.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either in support or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that public drinking water systems in Utah are adhering to the basic responsibilities of maintaining a safe drinking water system. This rule sets the foundation for the details in rules that follow, such as Rule R309-600 which details the specifics of a source water protection program. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Rachael Cassady by phone at 801-536-4467, by FAX at 801-536-4211, or by Internet E-mail at rcassady@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

**Environmental Quality, Drinking Water  
 R309-110  
 Administration: Definitions**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION  
 DAR FILE NO.: 33474  
 FILED: 03/22/2010**

**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: Section 19-4-104 authorizes the Drinking Water Board to make rules in accordance with Title 63G, Chapter 3, that includes the definitions of terms and expressions used throughout all rules under the Safe Drinking Water Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either in support or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that public drinking water systems in Utah understand the definitions of the terms and expressions used throughout Title R309. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Rachael Cassady by phone at 801-536-4467, by FAX at 801-536-4211, or by Internet E-mail at rcassady@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

**Environmental Quality, Drinking Water  
 R309-115  
 Administrative Procedures**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION  
 DAR FILE NO.: 33475  
 FILED: 03/22/2010**



**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: Subsection 19-4-104(1)(b) authorizes the Drinking Water Board to enforce order by appropriate administrative and judicial proceedings.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either in support or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that public drinking water systems in Utah have direction for administrative procedures and adjudicative proceedings. This rule allows the Division of Drinking Water and the Drinking Water Board to enforce and follow through with rule requirements. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Rachael Cassady by phone at 801-536-4467, by FAX at 801-536-4211, or by Internet E-mail at rcassady@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

---

Environmental Quality, Drinking Water  
**R309-200**  
Monitoring and Water Quality: Drinking  
Water Standards

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

DAR FILE NO.: 33476  
FILED: 03/22/2010

**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: Subsection 19-4-104(1)(a)(i) authorizes the Drinking Water Board to establish standards that prescribe the maximum contaminant levels in any public water system and provide for monitoring.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either in support or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that public drinking water systems in Utah have primary and secondary standards for their water quality. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Rachael Cassady by phone at 801-536-4467, by FAX at 801-536-4211, or by Internet E-mail at rcassady@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

---

Environmental Quality, Drinking Water  
**R309-205**  
Monitoring and Water Quality: Source  
Monitoring Requirements

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

DAR FILE NO.: 33477  
FILED: 03/22/2010

**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: Subsection 19-4-104(1)(a)(i) authorizes the Drinking Water Board to establish standards and provide for monitoring and reporting of water quality related matters.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either in support or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that public drinking water systems in Utah are monitoring their sources of water for the required constituents at the correct times and in the correct intervals. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Rachael Cassady by phone at 801-536-4467, by FAX at 801-536-4211, or by Internet E-mail at [rcassady@utah.gov](mailto:rcassady@utah.gov)

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

**Environmental Quality, Drinking Water  
R309-210**

**Monitoring and Water Quality:  
Distribution System Monitoring  
Requirements**

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

DAR FILE NO.: 33478  
FILED: 03/22/2010

**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: Subsection 19-4-104(1)(a)(i) authorizes the Drinking Water Board to establish standards the prescribe the maximum contaminant levels in any public water system and provide for monitoring.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either in support or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that public drinking water systems in Utah are sampling for the correct contaminants at the correct places and times in their distribution systems. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

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

## DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Rachael Cassady by phone at 801-536-4467, by FAX at 801-536-4211, or by Internet E-mail at rcassady@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

**Environmental Quality, Drinking Water  
R309-215  
Monitoring and Water Quality:  
Treatment Plant Monitoring  
Requirements**

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

DAR FILE NO.: 33479  
FILED: 03/22/2010

**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: Subsection 19-4-104(1)(a)(i) authorizes the Drinking Water Board to establish standards that prescribe the maximum contaminant levels in any public water system and provide for monitoring.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either in support or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that public drinking water systems in Utah that treat the water do so appropriately and according to the standards set forth in this rule. This rule not only addresses surface water treatment and cryptosporidium treatment but also the protection of ground water. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

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

ENVIRONMENTAL QUALITY  
DRINKING WATER  
150 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Division of Administrative Rules.

## DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Rachael Cassady by phone at 801-536-4467, by FAX at 801-536-4211, or by Internet E-mail at rcassady@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

**Environmental Quality, Drinking Water  
R309-220  
Monitoring and Water Quality: Public  
Notification Requirements**

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

DAR FILE NO.: 33480  
FILED: 03/22/2010

**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: Subsection 19-4-104(1) authorizes the Drinking Water Board to establish standards that provide for monitoring, record-keeping, and reporting of water quality-related matters.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either in support or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that public drinking water systems in Utah are notifying the public as required when a violation has occurred. It is necessary to inform the public when measures must be taken to protect their health such as boil their water. This effort will greatly assist in keeping the consumers notified about the quality of their water.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Rachael Cassidy by phone at 801-536-4467, by FAX at 801-536-4211, or by Internet E-mail at rcassady@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

effort will greatly assist in providing good communications between water purveyors and their consumers.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Rachael Cassidy by phone at 801-536-4467, by FAX at 801-536-4211, or by Internet E-mail at rcassady@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

**Environmental Quality, Drinking Water  
 R309-225  
 Monitoring and Water Quality:  
 Consumer Confidence Reports**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 33481  
 FILED: 03/22/2010

**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: Subsection 19-4-104(1)(a)(i) authorizes the Drinking Water Board to establish standards that prescribe the maximum contaminant levels in any public water system and provide for monitoring and reporting of water quality-related matters.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either in support or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that community drinking water systems in Utah are providing correct and accurate yearly reports to their consumers. It outlines the contents required in the reports, when they are due, how to make them available, and how to contact the water system management with questions or concerns. This

**Environmental Quality, Drinking Water  
 R309-300  
 Certification Rules for Water Supply  
 Operators**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 33484  
 FILED: 03/22/2010

**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: Subsection 19-4-104(2) authorizes the Drinking Water Board to adopt and enforce standards and establish fees for certification of operators of any public water system.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either in support or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that public drinking water systems in Utah are employing trained and competent personnel to run their water systems. This rule sets the foundation for the training of the water operators,

testing, and continuation of their certifications. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Rachael Cassady by phone at 801-536-4467, by FAX at 801-536-4211, or by Internet E-mail at rcassady@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

Environmental Quality, Drinking Water  
**R309-305**  
 Certification Rules for Backflow  
 Technicians

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

DAR FILE NO.: 33485  
 FILED: 03/22/2010

**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: Subsection 19-4-104(4)(a) authorizes the Drinking Water Board to adopt and enforce standards and establish fees for certification of persons engaged in administering cross connection control programs of backflow prevention assembly training, repair, and maintenance testing.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either in support or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE

RULE, IF ANY: The continuation of this rule will ensure that the individuals involved in testing backflow valves, training testers, and those administering cross connection control programs are and remain competent to do so. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Rachael Cassady by phone at 801-536-4467, by FAX at 801-536-4211, or by Internet E-mail at rcassady@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

Environmental Quality, Drinking Water  
**R309-352**  
 Capacity Development Program

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

DAR FILE NO.: 33501  
 FILED: 03/23/2010

**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: Subsection 19-4-104(1)(a)(v) authorizes the Drinking Water Board to implement the Capacity Development Program and to govern the allotment of federal funds to public water systems to assist their compliance with the Federal 1996 Reauthorization of the Safe Drinking Water Act (SDWA).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either in support or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The 1996 SDWA amendments outlined the requirements of the Capacity Development Program. The Program mandates that states ensure that all new Community Water Systems and Non-Transient, Non-Community Water Systems demonstrate the technical, managerial, and financial capacity (capability) to comply with SDWA and the National Primary Drinking Water Regulations (NPDWR). In addition states must ensure that existing water systems demonstrate these capabilities before they can be awarded federal drinking water financial assistance from the federal Drinking Water State Revolving Fund (SRF). Each year states are granted capitalization funds from EPA to finance their individual Federal SRF programs. If a state does not have an acceptable Capacity Development Program 20% of those funds will be withheld (SDWA 1452(a)(1)(G)(i)). The State of Utah is currently granted more than \$8,000,000 annually for its Federal SRF program. Losing 20% or \$1,600,000 of funds each year would seriously impair the ability of the State to provide financial assistance to communities for drinking water infrastructure construction projects and could leave the public vulnerable to health and safety risks. These funds are also vital to the State's ability to administer the SDWA. Therefore, this should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Kenneth Wilde by phone at 801-536-0048, by FAX at 801-536-4211, or by Internet E-mail at kwilde@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/23/2010

**Environmental Quality, Drinking Water  
 R309-400  
 Water System Rating Criteria**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 33482  
 FILED: 03/22/2010

**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: Subsection 19-4-104(1)(a) authorizes the Drinking Water Board to make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that provide for monitoring, record-keeping and reporting of water quality; and Section 19-4-105 authorizes the Drinking Water Board to make rules more stringent than the corresponding federal regulations. Rule R309-400 prioritizes the rules made with authorization of Subsection 19-4-104(1)(a) and the priorities are set as more stringent than current federal regulations, as per Section 19-4-105.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either in support or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that public drinking water systems in Utah are prioritizing each issue that they must address and it shows the Division of Drinking Water which systems to prioritize for compliance. It is used to evaluate the water system's standard of operation and service delivered in compliance with the other rules encompassed in Rules R309-100 through R309-705. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Rachael Cassady by phone at 801-536-4467, by FAX at 801-536-4211, or by Internet E-mail at rcassady@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

Environmental Quality, Drinking Water  
**R309-405**

Compliance and Enforcement:  
 Administrative Penalty

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

DAR FILE NO.: 33483  
 FILED: 03/22/2010

**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: Section 19-4-109 authorizes the Drinking Water Board to assess and make a demand for payment of a penalty.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either in support or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that Drinking Water Board has the authority to assess penalty amounts for water system violations. This effort will greatly assist in protecting the quality and safety of the drinking water from the source through vast distribution systems to the end consumer, the public.

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

ENVIRONMENTAL QUALITY  
 DRINKING WATER  
 150 N 1950 W  
 SALT LAKE CITY, UT 84116-3085  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Rachael Cassady by phone at 801-536-4467, by FAX at 801-536-4211, or by Internet E-mail at rcassady@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

Environmental Quality, Drinking Water  
**R309-500**

Facility Design and Operation: Plan  
 Review, Operation and Maintenance  
 Requirements

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

DAR FILE NO.: 33486  
 FILED: 03/22/2010

**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: This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, construction, operation, and maintenance of public drinking water systems.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received in support or opposition of this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that plan review, operation, and maintenance requirements will be in place to ensure public water system facilities will provide safe drinking water to the people of the State of Utah.

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

ENVIRONMENTAL QUALITY  
 DRINKING WATER  
 150 N 1950 W  
 SALT LAKE CITY, UT 84116-3085  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Bob Hart by phone at 801-536-0054, by FAX at 801-536-4211, or by Internet E-mail at bhart@utah.gov  
 ◆ Ying-Ying Macauley by phone at 801-536-4188, by FAX at 801-536-4211, or by Internet E-mail at ymacauley@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

**Environmental Quality, Drinking Water  
R309-505**

**Facility Design and Operation:  
Minimum Treatment Requirements**

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

DAR FILE NO.: 33487  
FILED: 03/22/2010

**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: This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, construction, operation, and maintenance of public drinking water systems.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received in support or opposition of this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that the various types of water sources found in the State of Utah will receive the type and degree of treatment necessary in order to provide safe drinking water to the people of the State.

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

ENVIRONMENTAL QUALITY  
DRINKING WATER  
150 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Bob Hart by phone at 801-536-0054, by FAX at 801-536-4211, or by Internet E-mail at bhart@utah.gov
- ◆ Ying-Ying Macauley by phone at 801-536-4188, by FAX at 801-536-4211, or by Internet E-mail at ymacauley@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

**Environmental Quality, Drinking Water  
R309-510**

**Facility Design and Operation:  
Minimum Sizing Requirements**

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

DAR FILE NO.: 33488  
FILED: 03/22/2010

**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: This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, construction, operation, and maintenance of public drinking water systems.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received in support or opposition of this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that new water sources, storage facilities, and distribution systems for public water systems will be sized to reliably provide an adequate supply of drinking water to the people of the State of Utah.

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

ENVIRONMENTAL QUALITY  
DRINKING WATER



150 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Bob Hart by phone at 801-536-0054, by FAX at 801-536-4211, or by Internet E-mail at bhart@utah.gov  
◆ Ying-Ying Macauley by phone at 801-536-4188, by FAX at 801-536-4211, or by Internet E-mail at ymacauley@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

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

ENVIRONMENTAL QUALITY  
DRINKING WATER

150 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Bob Hart by phone at 801-536-0054, by FAX at 801-536-4211, or by Internet E-mail at bhart@utah.gov  
◆ Ying-Ying Macauley by phone at 801-536-4188, by FAX at 801-536-4211, or by Internet E-mail at ymacauley@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

## Environmental Quality, Drinking Water **R309-515**

### Facility Design and Operation: Source Development

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

DAR FILE NO.: 33489

FILED: 03/22/2010

#### **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: This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, construction, operation, and maintenance of public drinking water systems.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received in support or opposition of this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that new surface water sources, ground water wells, and ground water springs will be constructed to reliably provide an adequate supply of safe drinking water to the people of the State of Utah.

## Environmental Quality, Drinking Water **R309-520**

### Facility Design and Operation: Disinfection

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

DAR FILE NO.: 33490

FILED: 03/22/2010

#### **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: This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, construction, operation, and maintenance of public drinking water systems.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received in support or opposition of this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that new disinfection facilities will be constructed to reliably

provide an adequate supply of safe drinking water to the people of the State of Utah.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Bob Hart by phone at 801-536-0054, by FAX at 801-536-4211, or by Internet E-mail at bhart@utah.gov  
 ♦ Ying-Ying Macauley by phone at 801-536-4188, by FAX at 801-536-4211, or by Internet E-mail at ymacauley@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that new conventional surface water treatment plants will be constructed to reliably provide an adequate supply of safe drinking water to the people of the State of Utah.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Bob Hart by phone at 801-536-0054, by FAX at 801-536-4211, or by Internet E-mail at bhart@utah.gov  
 ♦ Ying-Ying Macauley by phone at 801-536-4188, by FAX at 801-536-4211, or by Internet E-mail at ymacauley@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

**Environmental Quality, Drinking Water  
 R309-525  
 Facility Design and Operation:  
 Conventional Surface Water Treatment**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 33491  
 FILED: 03/22/2010

**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: This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, construction, operation, and maintenance of public drinking water systems.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received in support or opposition of this rule.

**Environmental Quality, Drinking Water  
 R309-530  
 Facility Design and Operation:  
 Alternate Surface Water Treatment  
 Methods**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 33492  
 FILED: 03/22/2010

**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: This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, construction, operation, and maintenance of public drinking water systems.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received in support or opposition of this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that new surface water treatment plants using alternative treatment methods, such as direct filtration, slow sand filtration, or membrane filtration, will be constructed to reliably provide an adequate supply of safe drinking water to the people of the State of Utah.

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

ENVIRONMENTAL QUALITY  
DRINKING WATER  
150 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Bob Hart by phone at 801-536-0054, by FAX at 801-536-4211, or by Internet E-mail at [bhart@utah.gov](mailto:bhart@utah.gov)  
◆ Ying-Ying Macauley by phone at 801-536-4188, by FAX at 801-536-4211, or by Internet E-mail at [ymacauley@utah.gov](mailto:ymacauley@utah.gov)

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

## Environmental Quality, Drinking Water **R309-535**

### Facility Design and Operation: Miscellaneous Treatment Methods

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

DAR FILE NO.: 33493  
FILED: 03/22/2010

#### 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: This rule is promulgated by the Drinking Water Board as authorized by Title 19,

Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, construction, operation, and maintenance of public drinking water systems.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received in support or opposition of this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that new treatment systems, such as fluoridation, taste and odor control, stabilization, deionization, aeration, softening, iron and manganese control, and point-of-use and point-of entry treatment devices, will be constructed to reliably provide an adequate supply of safe drinking water to the people of the State of Utah.

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

ENVIRONMENTAL QUALITY  
DRINKING WATER  
150 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Bob Hart by phone at 801-536-0054, by FAX at 801-536-4211, or by Internet E-mail at [bhart@utah.gov](mailto:bhart@utah.gov)  
◆ Ying-Ying Macauley by phone at 801-536-4188, by FAX at 801-536-4211, or by Internet E-mail at [ymacauley@utah.gov](mailto:ymacauley@utah.gov)

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

## Environmental Quality, Drinking Water **R309-540**

### Facility Design and Operation: Pump Stations

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

DAR FILE NO.: 33494  
FILED: 03/22/2010

**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: This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, construction, operation, and maintenance of public drinking water systems.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received in support or opposition of this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that new pumping facilities and hydropneumatic systems for public drinking water systems will be constructed to reliably provide an adequate supply of safe drinking water to the people of the State of Utah.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Bob Hart by phone at 801-536-0054, by FAX at 801-536-4211, or by Internet E-mail at bhart@utah.gov  
 ♦ Ying-Ying Macauley by phone at 801-536-4188, by FAX at 801-536-4211, or by Internet E-mail at ymacauley@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

---

Environmental Quality, Drinking Water  
**R309-545**  
 Facility Design and Operation:  
 Drinking Water Storage Tanks

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

DAR FILE NO.: 33495  
 FILED: 03/22/2010

**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: This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, construction, operation, and maintenance of public drinking water systems.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received in support or opposition of this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that new drinking water storage tanks for public drinking water systems will be constructed to reliably provide an adequate supply of safe drinking water to the people of the State of Utah.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Bob Hart by phone at 801-536-0054, by FAX at 801-536-4211, or by Internet E-mail at bhart@utah.gov  
 ♦ Ying-Ying Macauley by phone at 801-536-4188, by FAX at 801-536-4211, or by Internet E-mail at ymacauley@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

**Environmental Quality, Drinking Water  
R309-550  
Facility Design and Operation:  
Transmission and Distribution Pipelines**

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

DAR FILE NO.: 33496  
FILED: 03/22/2010

**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: This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code. The Drinking Water Board may make rules governing the design, construction, operation, and maintenance of public drinking water systems.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received in support or opposition of this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule will ensure that new transmission and distribution pipelines for public drinking water systems will be constructed to reliably provide an adequate supply of safe drinking water to the people of the State of Utah.

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

ENVIRONMENTAL QUALITY  
DRINKING WATER  
150 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Bob Hart by phone at 801-536-0054, by FAX at 801-536-4211, or by Internet E-mail at [bhart@utah.gov](mailto:bhart@utah.gov)  
♦ Ying-Ying Macauley by phone at 801-536-4188, by FAX at 801-536-4211, or by Internet E-mail at [ymacauley@utah.gov](mailto:ymacauley@utah.gov)

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/22/2010

**Environmental Quality, Drinking Water  
R309-600  
Source Protection: Drinking Water  
Source Protection for Ground Water  
Sources**

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

DAR FILE NO.: 33464  
FILED: 03/17/2010

**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: Subsection 19-4-104(1)(a)(iv) authorizes the Drinking Water Board to adopt this rule which governs the protection of ground water sources of drinking water.

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 that either support or oppose this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule is necessary because it establishes practices deemed necessary by the Drinking Water Board to protect developed ground water sources of drinking water from accidental pollution or the potential for pollution.

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

ENVIRONMENTAL QUALITY  
DRINKING WATER  
150 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kate Johnson by phone at 801-536-4206, by FAX at 801-536-4211, or by Internet E-mail at [katej@utah.gov](mailto:katej@utah.gov)

AUTHORIZED BY: Ken Bousfield, Director

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/17/2010

EFFECTIVE: 03/17/2010

**Environmental Quality, Drinking Water  
R309-605**

**Source Protection: Drinking Water  
Source Protection for Surface Water  
Sources**

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

DAR FILE NO.: 33465  
FILED: 03/17/2010

**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: Subsection 19-4-104(1)(a)(iv) authorizes the Drinking Water Board to adopt this rule which governs the protection of surface water sources.

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 that either support or oppose this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule is necessary because it establishes practices deemed necessary by the Drinking Water Board to protect developed surface water sources of drinking water from pollution or the potential for pollution.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Kate Johnson by phone at 801-536-4206, by FAX at 801-536-4211, or by Internet E-mail at katej@utah.gov

**Environmental Quality, Drinking Water  
R309-700**

**Financial Assistance: State Drinking  
Water State Revolving Fund (SRF)  
Loan Program**

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

DAR FILE NO.: 33500  
FILED: 03/23/2010

**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 73, Chapter 10c, authorizes the Department of Environmental Quality acting through the Drinking Water Board to issue loans to political subdivisions to finance all or part of drinking water project costs and to enter into "credit enhancements", "interest buy-down agreements", and "hardship grants".

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either in support or opposing 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: Through this rule the Drinking Water Board is able to provide grants and low interest loans to communities for construction of drinking water infrastructure projects. Without this funding many communities could not afford to construct drinking water system improvements that are necessary to protect the health and safety of the public. This program also provides matching funds for the annual federal EPA Capitalization Grants, which provide millions of dollars annually to the Drinking Water State Revolving Fund (SRF) program and for continued administration of the federal and Utah State Safe Drinking Water Acts. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY  
DRINKING WATER  
150 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kenneth Wilde by phone at 801-536-0048, by FAX at 801-536-4211, or by Internet E-mail at kwilde@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/23/2010

## Environmental Quality, Drinking Water **R309-705**

### Financial Assistance: Federal Drinking Water Project Revolving Loan Program

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 33502  
FILED: 03/23/2010

#### 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: The federal Safe Drinking Water Act, 42 U.S.C. 300j et seq., and Title 73, Chapter 10c, authorize the Department of Environmental Quality acting through the Drinking Water Board to issue financial assistance to public drinking water systems for drinking water projects from a federal capitalization grant.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either in support or opposing 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: Through this rule the Drinking Water Board is able to provide millions of dollars annually in low interest loans and principal forgiveness (grants) to communities for construction of drinking water infrastructure projects. Without this financial assistance many communities could not afford to

construct drinking water system improvements that are necessary to protect the health and safety of the public and the Drinking Water Board would not be able to continue administering the federal and Utah State Safe Drinking Water Acts. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY  
DRINKING WATER  
150 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kenneth Wilde by phone at 801-536-0048, by FAX at 801-536-4211, or by Internet E-mail at kwilde@utah.gov

AUTHORIZED BY: Ken Bousfield, Director

EFFECTIVE: 03/23/2010

## Health, Health Care Financing, Coverage and Reimbursement Policy **R414-309**

### Medicare Drug Benefit Low-Income Subsidy Determination

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 33466  
FILED: 03/18/2010

#### 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 26-1-5 grants the Department of Health the power to adopt, amend, or rescind rules that shall have the force and effect of law. In addition, 42 CFR 423.904 requires the Department to exchange information on Medicare Part D subsidy applicants.

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 the Medicare Modernization Act requires the Department to have the ability to determine eligibility for the Medicare drug benefit low-income subsidies.

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 [kmcnutt@utah.gov](mailto:kmcnutt@utah.gov)

AUTHORIZED BY: David Sundwall, MD, Executive Director

EFFECTIVE: 03/18/2010

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received from interested persons supporting or opposing the rule to date.

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 validates and clarifies the circumstances under which a "let burn" policy may be implemented in an area to improve the forest health, convert the cover type, improve the forage species on the range, or other vegetation management that would improve the ecosystem under conservation principles. This rule also helps authorities know where authorized burning takes place and the limitations under which a burning may occur including but not limited to smoke management, safety equipment on site, and ignition during the open burning season. Therefore, this rule should be continued.

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

NATURAL RESOURCES  
FORESTRY, FIRE AND STATE LANDS  
1594 W NORTH TEMPLE  
SUITE 3520  
SALT LAKE CITY, UT 84116-3154  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Dave Grierson by phone at 801-538-5504, by FAX at 801-533-4111, or by Internet E-mail at [davegrierson@utah.gov](mailto:davegrierson@utah.gov)

AUTHORIZED BY: Richard Buehler, Director

EFFECTIVE: 04/01/2010

**Natural Resources; Forestry, Fire and  
State Lands  
R652-120  
Wildland Fire**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 33537  
FILED: 04/01/2010

**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 implements Article XVIII of the Utah Constitution and provides for the issuance of burning permits, the establishment of limited suppression areas, and conduct of prescribed burns under the authority of Sections 65A-8-101 and 65A-8-211.

**Public Safety, Driver License  
R708-32  
Uninsured Motorist Database**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 33511  
FILED: 03/25/2010



**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: Subsection 41-12a-803(7) directs the Department of Public Safety to make rules and establish procedures to use the Uninsured Motorist Database for the purposes stated in Subsection 41-12a-803(1): verify compliance with motor vehicle owner's or operator's security requirements, reduce the number of uninsured vehicles, increase compliance with motor vehicle registration and sales and tax laws, protect financial institutions bona fide security interests, and identify and prevent identity theft and other crimes.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it is a statutory requirement and there is an existing contract with a third party vendor to provide this program. In addition, the information provided by this program is used on a daily basis by law enforcement, the Driver License Division, and the Department of Motor Vehicles. The program has been successful in reducing the number of uninsured registered motor vehicles in Utah.

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)

AUTHORIZED BY: Nannette Rolfe, Director

EFFECTIVE: 03/25/2010

Public Safety, Driver License  
**R708-36**  
Disclosure of Personal Identifying  
Information in MVRs

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

DAR FILE NO.: 33518

FILED: 03/30/2010

**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: Subsection 53-3-109(7) directs the Driver License Division to establish rules to designate the content and format of a driving record, the form of written request acceptable to request a driving record including the form of signature required, and procedures for disclosing personal identifying information and portions of a driving record.

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 public comment was received in reference to this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section 53-3-109 states that all records of the Division shall be classified and disclosed in accordance with Title 63G, Chapter 2. The Division continues to provide a driving record of licensed drivers for many reasons: Court Proceedings, jobs, Insurance Agencies, Police Agencies, etc.

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

PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY, UT 84119-5595  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Nannette Rolfe, Director

EFFECTIVE: 03/30/2010

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 PUBLIC SAFETY  
 DRIVER LICENSE  
 CALVIN L RAMPTON COMPLEX  
 4501 S 2700 W 3RD FL  
 SALT LAKE CITY, UT 84119-5595  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Nannette Rolfe, Director

EFFECTIVE: 03/30/2010

**Public Safety, Driver License  
 R708-37**

**Certification of Licensed Instructors of Commercial Driver Training Schools or Testing Only Schools to Administer Driving Skills Tests**

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

DAR FILE NO.: 33520  
 FILED: 03/30/2010

**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 53-3-510 specifically charges the Division to establish procedures and standards to certify licensed instructors of driver training courses to administer Driving Skills Test.

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: Section 53-3-510 created an ongoing program which is administered according to this rule and therefore it is necessary that the rule be continued. It is by this rule that driver training instructors are certified to administer driving skills testing state wide. This provides many applicants for an original driver license access to testing while reducing wait times and scheduling backlogs in the driver license division offices.

**Public Safety, Driver License  
 R708-40  
 Driving Simulators**

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

DAR FILE NO.: 33519  
 FILED: 03/30/2010

**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: Subsection 53-3-505(1): In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Commissioner shall make rules regarding the requirements for: (d)(i) driving simulation devices that are fully interactive under Subsection 53-3-505.5(2)(b); and (ii) driving simulation devices that are not fully interactive under Subsection 53-3-505.5(2)(c).

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: Although the use of driving simulators is not widespread in training new drivers, they are used in several

programs statewide. As a result, this rule is necessary to outline the appropriate accounting of behind the wheel instruction time required to successfully complete a course of driving instruction.

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

PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY, UT 84119-5595  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Nannette Rolfe, Director

EFFECTIVE: 03/30/2010

**Public Safety, Driver License  
R708-41  
Requirements for Acceptable  
Documentation, Storage and  
Maintenance**

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

DAR FILE NO.: 33512  
FILED: 03/25/2010

**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: Subsections 53-3-104 (1)(b) and (e) direct the division to make rules for acceptable documentation of an applicant's identity, Social Security number, Utah resident status, Utah residence address, proof of legal presence, proof of citizenship in the United States and procedures for the storage and maintenance of applicant information.

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

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it is a statutory requirement and it is necessary for driver license employees and applicants for a regular or limited-term Utah driver license or identification card or a Driving Privilege card to know what documents are acceptable for proof of identity, legal/lawful presence, Social Security number, and Utah residence address. This rule also gives the division the authority to image and store these documents in a secure database.

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

AUTHORIZED BY: Nannette Rolfe, Director

EFFECTIVE: 03/25/2010

**School and Institutional Trust Lands,  
Administration  
R850-21  
Oil, Gas and Hydrocarbon Resources**

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

DAR FILE NO.: 33530  
FILED: 04/01/2010

**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: Subsection 53C-1-302(1)(a)(ii) and Title 53C, Chapter 2, authorize the Director of the School and Institutional Trust Lands Administration to establish rules for the issuance of mineral leases and management of trust-owned lands and mineral resources.

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 for this rule have been received by the agency since this rule was first enacted five years ago.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The School and Institutional Trust Lands Administration manages approximately 4,400,000 acres of subsurface mineral rights located throughout the State of Utah. Much of this acreage is currently under lease to third parties for mineral development which consistently provides a large portion of the agency's revenue. Rules governing the management and use of these mineral resources are critical to the continued success in managing these resources for the benefit of the respective beneficiaries. These rules also provide a consistent set of procedures as to how business is conducted by the agency for customers to follow. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 SCHOOL AND INSTITUTIONAL TRUST LANDS  
 ADMINISTRATION  
 ROOM 500  
 675 E 500 S  
 SALT LAKE CITY, UT 84102-2818  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ LaVonne Garrison by phone at 801-538-5197, by FAX at 801-355-0922, or by Internet E-mail at lavonnegarrison@utah.gov

AUTHORIZED BY: Kevin Carter, Director

EFFECTIVE: 04/01/2010

---

School and Institutional Trust Lands,  
 Administration  
**R850-22**  
 Bituminous-Asphaltic Sands and Oil  
 Shale Resources

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 33531  
 FILED: 04/01/2010

**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: Subsection 53C-1-302(1)(a)(ii) and Title 53C, Chapter 2, authorize the Director of the School and Institutional Trust Lands Administration to establish rules for the issuance of mineral leases and the management of trust-owned lands and mineral resources.

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 for this rule have been received by the agency since it was first enacted five years ago.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The School and Institutional Trust Lands Administration manages approximately 4,400,000 acres of subsurface mineral rights located throughout the State of Utah. This rule applies to the management of the bituminous-asphaltic sands and oil shale resources for the benefit of the respective beneficiaries and sets forth the guidelines by which the agency conducts business and the customer can follow. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 SCHOOL AND INSTITUTIONAL TRUST LANDS  
 ADMINISTRATION  
 ROOM 500  
 675 E 500 S  
 SALT LAKE CITY, UT 84102-2818  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Thomas Faddies by phone at 801-538-5150, by FAX at 801-355-0922, or by Internet E-mail at tomfaddies@utah.gov

AUTHORIZED BY: Kevin Carter, Director

EFFECTIVE: 04/01/2010

---

School and Institutional Trust Lands,  
 Administration  
**R850-23**  
 Sand, Gravel and Cinders Permits

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

DAR FILE NO.: 33532  
FILED: 04/01/2010

**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: Subsection 53C-1-302(1)(a)(ii) and Title 53C, Chapter 2, authorize the Director of the School and Institutional Trust Lands Administration to establish rules for the issuance of surface and subsurface leases and the management of trust-owned lands and resources.

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 concerning this rule have been received by the agency since it was enacted five years ago.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The School and Institutional Trust Lands Administration manages approximately 4,400,000 acres of surface and subsurface lands and resources throughout the State of Utah. This rule is specific to the management of the sand, gravel and cinders resources and establishes the guidelines by which the agency conducts business with the customers for these resources. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
ROOM 500  
675 E 500 S  
SALT LAKE CITY, UT 84102-2818  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Thomas Faddies by phone at 801-538-5150, by FAX at 801-355-0922, or by Internet E-mail at tomfaddies@utah.gov

AUTHORIZED BY: Kevin Carter, Director

EFFECTIVE: 04/01/2010

School and Institutional Trust Lands,  
Administration  
**R850-24**

General Provisions: Mineral and  
Material Resources, Mineral Leases  
and Material Permits

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

DAR FILE NO.: 33533  
FILED: 04/01/2010

**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: Subsection 53C-1-302(1)(a)(ii) and Title 53C, Chapter 2, authorize the Director of the School and Institutional Trust Lands Administration to establish rules for the issuance of mineral and material leases and permits and the management of trust-owned lands and resources.

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 concerning this rule have been received by the agency since it was enacted five years ago.

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 provides the general provisions that apply to multiple commodities in an "umbrella-type" rule. It provides clarity for the community that is subject to these processes and eliminates the need to include these same provisions in each separate rule for the various commodities. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
ROOM 500  
675 E 500 S  
SALT LAKE CITY, UT 84102-2818  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Thomas Faddies by phone at 801-538-5150, by FAX at 801-355-0922, or by Internet E-mail at tomfaddies@utah.gov

AUTHORIZED BY: Kevin Carter, Director

EFFECTIVE: 04/01/2010

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Thomas Faddies by phone at 801-538-5150, by FAX at 801-355-0922, or by Internet E-mail at tomfaddies@utah.gov

AUTHORIZED BY: Kevin Carter, Director

EFFECTIVE: 04/01/2010

School and Institutional Trust Lands,  
Administration  
**R850-25**

Mineral Leases and Materials Permits

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

DAR FILE NO.: 33534

FILED: 04/01/2010

**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: Subsection 53C-1-302(1)(a)(ii) and Title 53C, Chapter 2, authorize the Director of the School and Institutional Trust Lands Administration to establish rules for the issuance of leases and management of trust-owned lands and resources.

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 for this rule have been received by the agency in the five years since it was enacted.

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 provides the necessary guidelines for the issuance of leases and permits for the commodities covered under this rule. It also provides for the efficient management of the resources for the best interests of the trust beneficiaries. Therefore, this rule should be continued.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
ROOM 500  
675 E 500 S  
SALT LAKE CITY, UT 84102-2818

School and Institutional Trust Lands,  
Administration  
**R850-26**

Coal Leases

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

DAR FILE NO.: 33535

FILED: 04/01/2010

**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: Subsection 53C-1-302(1)(a)(ii) and Title 53C, Chapter 2, authorize the Director of the School and Institutional Trust Lands Administration to establish rules for the issuance of leases and management of trust-owned lands and resources.

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 concerning this rule have been received by the agency since it was enacted five years ago.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is vital to the management of the Trust's coal resources and the issuance of leases. It provides the guidelines and procedures to be followed by the agency and third-parties which are consistent and in the best interests of the trust beneficiaries. Therefore, this rule should be continued.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION

ROOM 500  
675 E 500 S  
SALT LAKE CITY, UT 84102-2818  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

♦ Thomas Faddies by phone at 801-538-5150, by FAX at 801-355-0922, or by Internet E-mail at tomfaddies@utah.gov

AUTHORIZED BY: Kevin Carter, Director

EFFECTIVE: 04/01/2010

**School and Institutional Trust Lands,  
Administration  
R850-27  
Geothermal Steam**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 33536  
FILED: 04/01/2010

**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: Subsection 53C-1-302(1)(a)(ii) and Title 53C, Chapter 2, authorize the Director of the School and Institutional Trust Lands Administration to establish rules for the issuance of leases and management of trust-owned lands and resources.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: A written comment was received from the Department of Natural Resources, Division of Water Rights in February, 2005, during the advertising period and prior to the enactment of this rule. The comment stated that they believed this rule would benefit from additions or amendments providing a fuller definition of "geothermal steam" as contemplated in the rule, as well as a reference to the Division of Water Rights' Administrative Rule R655-1. This comment was reviewed and considered prior to the enactment and effective date of this rule on 04/01/2005. No other written comments have been received since the enactment five years ago.

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 provides the commodity-specific provisions for the leasing and management of geothermal steam resources on trust-owned lands throughout the State of Utah. It sets forth the guidelines and procedures whereby the agency may conduct business and that the customer may follow in relation to this resource. Therefore, this rule should be continued.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
ROOM 500  
675 E 500 S  
SALT LAKE CITY, UT 84102-2818  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

♦ Thomas Faddies by phone at 801-538-5150, by FAX at 801-355-0922, or by Internet E-mail at tomfaddies@utah.gov

AUTHORIZED BY: Kevin Carter, Director

EFFECTIVE: 04/01/2010

**Workforce Services, Unemployment  
Insurance  
R994-204  
Covered Employment**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 33521  
FILED: 03/31/2010

**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 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security Act. Section 35A-4-204 defines employment and when employment will be covered under the Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any comments during the last five years on this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary for employers and employees to determine which employees are covered under the Act especially in situations where it might not be clear such as independent contractors and when services are provided in more than one state. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 03/31/2010

administration of the Employment Security Act. Section 35A-4-205 defines when employment is exempt under the Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written comments in the last five years regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to provide guidance to employers and employees as to when the employment may be exempt under the Act. It establishes standards for determining exempt status in certain situations like casual labor, agricultural labor, and domestic labor. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 03/31/2010

**Workforce Services, Unemployment  
Insurance  
R994-205  
Exempt Employment**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 33522  
FILED: 03/31/2010

**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 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the

**Workforce Services, Unemployment  
Insurance  
R994-206  
Agricultural Labor**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 33523  
FILED: 03/31/2010

**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 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security Act. Section 35A-4-206 defines agricultural labor.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written comments on this rule in the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to provide specific information regarding what is considered to be agricultural labor and hence what is exempt under the Act. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 03/31/2010

---

**Workforce Services, Unemployment  
 Insurance  
 R994-304  
 Special Provisions Regarding Transfers  
 of Unemployment Experience and  
 Assigning Rates**

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

DAR FILE NO.: 33524  
 FILED: 03/31/2010

### 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 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security Act. Section 35A-4-304 defines when experience ratings can be transferred to a new business owner or a different employer.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any comments on this rule in the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to define when a new employer can keep, or must keep, the experience rating of a prior owner or business. This is to prevent employers from transferring ownership or employees to circumvent an unfavorable experience rating. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 03/31/2010

---

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



## NOTICES OF RULE EFFECTIVE DATES

---

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

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

---

### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal & Reenact  
REP = Repeal

### Commerce

Occupational and Professional Licensing  
No. 33227 (AMD): R156-1. General Rule of the Division of Occupational and Professional Licensing  
Published: 12/15/2009  
Effective: 03/25/2010

No. 33266 (AMD): R156-31b-701a. Delegation of Nursing Tasks in a School Setting  
Published: 01/01/2010  
Effective: 03/29/2010

### Environmental Quality

Water Quality  
No. 33232 (AMD): R317-1-1. Definitions  
Published: 12/15/2009  
Effective: 04/01/2010

No. 33232 (CPR): R317-1-1. Definitions  
Published: 02/15/2010  
Effective: 04/01/2010

No. 33233 (AMD): R317-2. Standards of Quality for Waters of the State  
Published: 12/15/2009  
Effective: 04/01/2010

No. 33233 (CPR): R317-2. Standards of Quality for Waters of the State  
Published: 02/15/2010  
Effective: 04/01/2010

### Health

Health Care Financing, Coverage and Reimbursement Policy  
No. 33342 (AMD): R414-1-5. Incorporations by Reference  
Published: 02/15/2010  
Effective: 04/01/2010

No. 33341 (R&R): R414-7B. Nurse Aide Training and Competency Evaluation Program  
Published: 02/15/2010  
Effective: 03/29/2010

No. 33343 (AMD): R414-54-3. Services  
Published: 02/15/2010  
Effective: 04/01/2010

No. 33344 (AMD): R414-59-4. Client Eligibility Requirements  
Published: 02/15/2010  
Effective: 04/01/2010

No. 33345 (AMD): R414-302-4. Residents of Institutions  
Published: 02/15/2010  
Effective: 04/01/2010

No. 33346 (AMD): R414-303-3. A, B and D Medicaid and A, B and D Institutional Medicaid Coverage Groups  
Published: 02/15/2010  
Effective: 04/01/2010

### Labor Commission

Antidiscrimination and Labor, Labor  
No. 33299 (AMD): R610-3-22. Payment of Wages Via Pay Cards  
Published: 02/01/2010  
Effective: 03/24/2010

No. 33299 (CPR): R610-3-22. Payment of Wages Via Pay Cards  
Published: 02/15/2010  
Effective: 03/24/2010

NOTICES OF RULE EFFECTIVE DATES

---

Money Management Council

Administration

No. 33359 (AMD): R628-11. Maximum Amount of Uninsured Public Funds Allowed to Be Held by Any Qualified Depository  
Published: 02/15/2010  
Effective: 03/24/2010

Natural Resources

Wildlife Resources

No. 33331 (AMD): R657-33. Taking Bear  
Published: 02/15/2010  
Effective: 03/25/2010

Public Safety

Driver License

No. 33338 (AMD): R708-41. Requirements for Acceptable Documentation, Storage and Maintenance  
Published: 02/15/2010  
Effective: 03/24/2010

Fire Marshal

No. 33357 (AMD): R710-6. Liquefied Petroleum Gas Rules  
Published: 02/15/2010  
Effective: 03/24/2010

No. 33358 (AMD): R710-10-8. Non-Affiliated Fire Service Training  
Published: 02/15/2010  
Effective: 03/24/2010

Workforce Services

Employment Development

No. 33356 (AMD): R986-200-214. Assistance for Specified Relatives  
Published: 02/15/2010  
Effective: 04/01/2010

No. 33296 (AMD): R986-200-235. Unearned Income  
Published: 01/15/2010  
Effective: 04/01/2010

No. 33295 (AMD): R986-700-714. CC Payment Method  
Published: 01/15/2010  
Effective: 04/01/2010

Unemployment Insurance

No. 33354 (R&R): R994-402. Extended Benefits  
Published: 02/15/2010  
Effective: 04/01/2010

No. 33355 (AMD): R994-406-203. Waiver of Recovery of Nonfault Overpayments  
Published: 02/15/2010  
Effective: 04/01/2010

**End of the Notices of Rule Effective Dates Section**

# RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

---

The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2010, including notices of effective date received through April 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/>).

---